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The Solicitors' Journal

[Established 1857.] [Registered as a Newspaper.]

VOL. LXXX. No. 13 [Pages 233 to 252]. Saturday, March 28, 1936. Published Weekly. Price One Shilling.

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Forms of application, with further particulars of the appointment, may be obtained from the Secretary, Board of Control, Caxton House West, Tothill-street, S.W.1.

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The Solicitors' Journal

VOL. LXXX. **Saturday, March 28, 1936.** No. 13

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Current Topics.

The New Solicitor-General.

In accordance with general expectation, and, we believe, to the entire satisfaction of the profession, Mr. T. J. O'Connor, K.C., has been appointed Solicitor-General in succession to Sir Donald Somervell, who becomes Attorney-General *vice* Sir Thomas Inskip, who, as was noted in our columns last week, has accepted the office of Minister for the Co-ordination of Defence. Mr. O'Connor, whom before long we shall have to refer to as Sir Terence, brings to the discharge of his new office the qualities which make for success—in the courts, a wide knowledge of law, a persistency and persuasiveness in the presentation of his cases, and a pleasing forensic style, and in the House of Commons, a critical attitude, the latter a quality which should prove of value in the work of legal reform which still calls for completion. Although several of the duties which formerly fell more specifically to the Solicitor-General, particularly those connected with patents, have, by recent legislation, been transferred to the courts, there remains abundant scope for the new Solicitor-General's energies, both in the courts and in the House. Like the new Attorney-General, he is still young in years, with all the advantages that spring from that asset. His assiduous attention to the interests of his constituents came out amusingly enough a year or two ago on his making an application to the Court of Appeal, then presided over by the late Lord Justice Scrutton, for a case to stand out of the list on the ground of an important engagement he had in the country. Lord Justice Scrutton, in his suavest tone, said: "Would it be indiscreet if I were to ask the nature of the important engagement?" "Well, my Lord," answered Mr. O'Connor, "I have undertaken to open a bazaar in my constituency and am anxious to keep the appointment." "I am afraid, Mr. O'Connor," said the Lord Justice, "we cannot permit an engagement of that nature to interfere with the lists," and so the application was refused.

Housing Legislation and Old Cottages.

Two recent letters to *The Times* draw attention to the danger threatening many old and picturesque cottages from a rigid and unimaginative application of existing housing law. One writer points to the effect of the enforcement of clearance orders in relation to old houses which, not complying with the by-laws, must remain uninhabited. That they are sound or of solid construction, in good sanitary condition, and that none of the occupants have suffered in health are alike immaterial, for, if the heights of rooms, the sizes of windows or other details are not in accordance with the by-laws, "their demolition may be ordered or changes insisted upon that would entirely ruin their appearance." The same writer urges that in the country, where much time is spent out of doors and houses are generally surrounded by gardens, rooms can be lower and windows smaller without the least detriment to health, and he makes reference to the fact that the Society for the Protection of Ancient Buildings in their report last June drew attention to the danger and urged the Minister of Health to stay the general adoption of this method of judging the standard of old cottages by by-laws made for new ones. The second writer, whose letter is referred to above, states that the same attitude of mind is in many instances defeating the intentions of the Housing (Rural Workers) Act, 1926, grants being withheld in many cases where the work contemplated does not (and in most cases, he says, it cannot) bring the cottage up to by-law standard. "The result is," the letter continues, "that old properties have to remain as they are and such amenities as can be provided without altering the character of the buildings are denied to the occupants." This writer's experience in a village where, he says, a hideous housing scheme (fortunately of small dimensions) has been carried out, demonstrates the overwhelming preference of the villagers for the old buildings with all their inconveniences. The question is one of some difficulty, but the desirability of preserving the genuine cottage as something more than a monument, in so far as that can be secured without injury to the health of the inhabitants, is one that will be shared generally.

Housing Progress.

Recent figures illustrate the progress being made towards the elimination of slums and the provision of proper housing accommodation. During last February the number of houses included in clearance orders submitted to the Minister of Health by local authorities was 4,253, involving the displacement of 17,412 persons. The corresponding figures for the previous month were 3,557 and 14,421. Orders confirmed by the Minister during February covered 3,760 houses, involving the displacement of 14,900 persons, while during the same period local authorities made declarations relating to 4,001 houses, involving the displacement of 16,207 persons. With regard to re-housing, 41,665 houses were under construction at the end of January and definitely allocated to the Housing Act, 1930. The full total of houses under construction by local authorities was 51,804, and it was intimated towards the beginning of the present month that many of the remainder of this total figure might also be allocated to the Act. Meanwhile, during February, a further 4,358 houses were contained in building proposals approved by the Minister for the purpose of the Act of 1930. The whole total of houses approved in proposals submitted by local authorities was

5,887, and a certain proportion of the remainder of these was likely to be allocated to the Act, as also was a proportion of the 1,966 houses, the balance of the total of 4,899 houses completed by local authorities in January which had not definitely been allocated to the Act. Meanwhile, it is interesting to note Sir KINGSLEY WOOD'S confidence in private enterprise as a factor in the provision of the smaller type of house. Speaking at the annual dinner of the Institution of Structural Engineers last Monday, the Minister of Health said that there had been many prophecies of sensational slumps in house building, but, in fact, there had not only been continued activity in the building of houses, but a continued expansion in the building of industrial and commercial premises and places of entertainment. He went on to express his belief that private enterprise would go on building a considerable number of houses, and, while there might not be the remarkable figures recently obtained, there should still be a considerable output, in connection with which the demand for improved and better housing accommodation by all sections of the community was often overlooked. One of the most satisfactory features from a social point of view also, Sir KINGSLEY said, had been the extension of private enterprise in the erection of the smaller type of house.

Auctioneers' Licences.

THE prospect of new legislative provision being made in regard to auctioneers' licences—a subject which has been dealt with at some length in this column—was one of the principal matters referred to at the recent annual dinner of the Incorporated Society of Auctioneers and Landed Property Agents, at the Savoy Hotel, London. LORD ELTISLEY, as a member of the House of Lords Select Committee which considered the question, expressed (we quote from *The Times*) the hope that as a result of the report the societies concerned would be able to place an agreed measure before both Houses of Parliament. Mr. KELYNGE R. ENGLAND, President of the Society, who was in the chair, said that a Bill concerning the control of auctioneers' and valuers' licences was now the subject of conferences between the Chartered Surveyors' Institution, the Auctioneers' Institute, and the Society of Auctioneers and Landed Property Agents, and good progress had been made in the direction of placing an agreed measure before Parliament this Session. Turning to the existing position the speaker said it seemed an anomaly that to get a bailiff's licence three references were required, and that it could only be granted by a county court judge, while the payment of £10 would procure an auctioneer's licence. It was, he urged, unfair that the mere payment of £10 could make a man a licensed auctioneer, when boys and young men were sitting for examinations to make themselves efficient for the profession.

Agricultural Insurance : The New Bill.

SEVERAL points of interest were raised when the House of Commons considered the Unemployment Insurance (Agriculture) Bill, as amended in Committee, on Report last Monday. In reply to an amendment which had for its object the provision of more adequate benefits and the removal of the maximum benefit of 30s. a week, prescribed by cl. 3 (which is concerned with rates of benefit in respect of agricultural contributions), the Minister of Labour said that they were not considering the question of need. The Bill, like its predecessors, was based on the practical consideration of what contribution it was possible to require on roughly equal terms for all concerned, and what was the best use that could be made of such resources in contributing to the maintenance of those who were out of employment. This, it was intimated, was the basis of the whole Bill, including the provisions of the clause in question, and the amendment was ruled out on the ground of cost. Mr. BROWN indicated, however, that the fund must be examined each year by an impartial committee, and if their hopes were better than their fears, an improved distribution of the money could be recommended. Another speaker referred, in connection with the Third Schedule, which specifies the weekly rates of benefit, to what he described as the unfair distinction between rural and urban workers, and proposed increases in the weekly scales of benefit. The fact that the agricultural worker is able to maintain a comparable standard of living on a smaller wage was duly alluded to by a further speaker, while the Minister of Labour explained that it was impossible to accept the amendment from a financial point of view. To alter the scheme of the Bill to the scheme proposed would cost £87,600 a year. In a normal year there was only £17,000 to spare. It is, perhaps, of interest to note that the Bill contemplates the extension of the scheme to private gardeners. If the Unemployment Insurance Statutory Committee decide that a private gardener ought to be included in the scheme, the Minister of Labour is empowered to make an order to that effect. "Private gardener" means, in accordance with the terms of an amendment accepted on the report stage, a person employed in horticulture otherwise than in any trade or business carried on for the purposes of gain, not being a person so employed by a public or local authority or a society, institution, association, club, or company (whether incorporated or not). The Bill was read the third time on the day above mentioned.

Private Street Works : New Bill.

THE Minister of Health recently made the interesting announcement that he hoped shortly to introduce a Bill dealing with the law relating to private street works. He adverted to the fact that the existing law on the subject is based on two separate statutes—the Public Health Act, 1875, and the Private Street Works Act, 1892—not simultaneously in force in one place, and pointed out that their application in adjoining areas was an obvious source of difficulty. The later code of 1892, he said (we quote from *The Times*), represented, not unnaturally, some advance in methods on the earlier one, and there had been an increasing tendency for Parliament to welcome local legislation designed to assimilate the Public Health Act code in certain respects to the Private Street Works code. In those circumstances it was proposed that there should in future be but one code, based on the Act of 1892, with various amendments indicated by experience. It was hoped, Sir KINGSLEY WOOD observed, that the new Bill which had been the subject of discussion with the local authorities, would be uncontroversial. It may be recalled that "provisions with regard to streets and building lines" were among the matters which, though associated to some extent with public health legislation in the past, the Local Government and Public Health Consolidation Committee excluded from the ambit of the new Public Health Bill.

Railway and Canal Commission : Variation of Orders.

RULE 69 of the Railway and Canal Commission Rules, 1924, provides *inter alia* that any application to the Commissioners to review and rescind or vary any decision or order previously made by them, and not being a decision or order upon an interlocutory application, nor under r. 18 (which is concerned with tolls, rates and charges), shall be made within twenty-eight days after the said decision or order shall have been communicated to the parties unless the Commissioners think fit to enlarge the time for making such application. *The Times* of 19th March contained a reference to an application made the previous day to the Railway and Canal Commission to dismiss an application by a colliery company to vary substantially one order, and to cancel another, on the ground that the application last mentioned had not been made within the period prescribed by the above quoted rule. MCKINNON, J., said, however, that inasmuch as the actual orders of the court, as every other order of that sort made by the court, reserved a general liberty to apply to vary or rescind, and inasmuch as s. 18 of the Railway and Canal Traffic Act, 1888,

specifically provided that the Commission might review, vary or rescind any order made by them, he could not help thinking that r. 69 must have been meant by the Commissioners not to deal with applications pursuant to the liberty to apply reserved in orders of that sort, or pursuant to s. 18 of the Act of 1888, but with slip orders or variations in the judgment of a clerical nature as referred to in Ord. XXVIII, rr. 11 and 12 of the Rules of the Supreme Court. The application was accordingly dismissed.

River Pollution.

A MEMORANDUM recently prepared by the National Association of Fishery Boards contains, with a description of the existing position in regard to the welfare of rivers and fisheries, a number of interesting suggestions for improvement. The existing machinery of administration, whether in its local or central aspects, is thought to be chaotic. Locally there are water undertakings, catchment boards, fishery boards, navigation authorities, harbour authorities, and anti-pollution authorities (county and other councils). Except in three districts where joint committees (river boards) have been formed, there is, it is said, practically no co-operation between these various bodies. With regard to the central department of state, the Ministry of Health is responsible for water supply and sewage disposal, the Ministry of Agriculture and Fisheries for land drainage, flood prevention and fisheries, and the Board of Trade for navigation and industrial interests. The memorandum recommends that the central responsibility be no longer distributed in the manner above described, and urges that if the constitution of a separate water department is considered inexpedient on the grounds of expense or otherwise, then it should be practicable to form a committee from all the existing departments concerned with an independent chairman who, it is suggested, might be drawn from the Treasury. "Such a committee," it is said, "should be capable of formulating a water policy, having regard to all the interests concerned. Above all, some body that can agree upon a comprehensive policy, taking into consideration all the interests involved, is essential." The setting up of such a central body is, it is explained, in line with recommendations that have been made during the last sixty years by seven Royal Commissions, two Select Committees, the Society of Arts, and numerous deputations to the Government from informed associations which have investigated from the points of view of different interests. The need for the centralisation of local jurisdiction as regards the different water interests which has frequently been recommended has, it is said, been emphasised by recent events. "It would not," the memorandum states, "seem difficult to constitute an authority within each watershed to co-ordinate policy without prejudice to the functions of the various interests concerned. Incidentally, such an authority should be given anti-pollution powers for the protection of all water interests." The setting up of further government committees is deprecated. There is, it is urged, no reason why steps should not be taken without waste of time and money on more committees and reports.

Proposed Legislation.

AT the annual meeting of the association which was held at the Hotel Victoria last Thursday week, criticism was directed by several speakers against the proposals of the Minister of Health to introduce legislation based on the conclusions of the Joint Committee on Water Resources and Supplies. The proposals were, according to the executive committee of the association, of a highly technical nature—Mr. R. BEDDINGTON, President, said that the suggested formula for dealing with compensation water was so complicated that nobody who was not a Senior Wrangler could understand it—but the association had been advised that if they become law they would mean that, where water undertakers drew their supplies from a river, there would be a reduction of at least 50 to 60 per cent. in the amount of compensation water which had to be provided on the basis hitherto recognised. The committee intimated that such an attempt to reduce the flow of rivers was calculated to inflict most serious injury on fisheries throughout the country. The value of fresh water fisheries both from the view point of the amount of food and employment they found and the recreation they provided for still greater numbers of people was adverted to by the President at a later stage of the proceedings in connection with the recommendation for the creation of a central water authority. With regard to the general question of safeguarding the position of inland fisheries, the meeting decided to accept an invitation for the association to send three of the members to meet an equal number of members of the British Waterworks Association and the Catchment Boards Association and representatives of the Ministry of Health and the Ministry of Agriculture and Fisheries. A number of speakers objected to the pollution of rivers by whey from milk factories, Dr. H. T. CALVERT, Director of Research, Water Pollution Research Board, Ministry of Health, remarking that after the success of an experiment with a plant for dealing with effluent there was no reason why pollution from milk factories should continue. Economically, he said, it was a crime to throw whey into rivers, because it was of decided value to the milk industry, which should be compelled to use it.

Recent Decisions.

IN *Rex* v. *Bishirgian*, *Rex* v. *Howeson*, *Rex* v. *Hardy* (*The Times*, 19th March), the Court of Criminal Appeal upheld convictions and sentences in connection with a false prospectus within the meaning of s. 84 of the Larceny Act, 1861. The first appellant was charged with circulating or publishing, or concurring in making, circulating or publishing, the prospectus, the second and third with aiding and abetting, and all three with conspiracy to contravene the above section. In answer to the argument that the judgment in *Rex* v. *Kylsant* [1932] 1 K.B. 442, was inapplicable to the present case, the Lord Chief Justice intimated that, while the facts were different, the well-established principles of law there stated, not for the first time, applied *a fortiori* to the present case.

In *Attorney-General* v. *Cohen and Another* (*The Times*, 19th March), it was held that the purchase by the defendants by separate bids at a public auction from the same vendors of a number of properties sold in lots did not constitute a series of transactions within the meaning of s. 73 of the Finance (1909–10) Act, 1910, so as to render stamp duty payable at the higher rate on such of them as were within the £500 limit prescribed by that section.

In *Hoddesdon Urban District Council* v. *Broxbourne Sand and Ballast Pits Ltd.* (*The Times*, 19th March), an application under s. 3 of the Mines (Working Facilities and Support) Act, 1923, for an ancillary right involving the extinction or diversion of a public footpath was dismissed by the Railway and Canal Commission Court on the ground that the section aforesaid did not confer on the court jurisdiction concurrent with that vested in quarter sessions by virtue of ss. 84 and 85 of the Highway Act, 1835. In order to support the contention that such jurisdiction had been given, very clear words would, it was intimated, have been necessary.

IN *Rex* v. *Associated Newspapers Ltd.: Ex parte Beyers; Same* v. *Co-operative Press, Ltd.: Ex parte Same; Same* v. *Daily Sketch and Sunday Graphic Ltd.: Ex parte Same* (p. 247 of this issue), rules *nisi* granted at the instance of the plaintiff in a breach of promise action against the respective editors, printers and publishers of the *Evening News*, *Reynold's Illustrated News* and the *Sunday Graphic* in respect of articles published therein relating to the said action were discharged on the ground that it could not be maintained that the matter published was calculated to prejudice the trial of the action. The Lord Chief Justice intimated that the case illustrated what was in the mind of LORD RUSSELL OF KILLOWEN when he said that applications of the nature in question had "in many cases gone too far": *Reg.* v. *Payne* [1896] 1 Q.B. 577,

Rights of Purchaser of Goodwill.

THE purchaser of the goodwill of a business often protects himself against unfair competition from the seller by getting a covenant whereby the seller binds himself not to be concerned in a similar business within a defined radius. A covenant of the same nature may be taken when one partner's share is taken over by another. It frequently happens, however, that no covenant is entered into and in that case questions may arise as to the rights of the person taking over the goodwill against the previous owner.

The law was formerly in some confusion, but the earlier conflicting decisions were considered by the House of Lords in *Trego* v. *Hunt* [1896] A.C. 7, and the position clarified. The action was brought by partners who were entitled to the goodwill of a business for an injunction to restrain another partner, who, under the partnership articles, had no right in respect of the goodwill, from taking a list of customers of the firm with the object, as was admitted, of soliciting them for the purpose of a business he intended to commence on his own account. The House considered two questions: (1) whether the vendor of the goodwill of a business was entitled to start a fresh business and deal with the customers of his former business, and (2) whether the vendor was entitled to solicit former customers. On the first point the House held, with some reluctance, that the vendor was not under any restriction not to carry on a competing business. On the second point, however, it was laid down that the vendor was debarred from soliciting former customers. Lord Macnaghten put the position as follows :—

> " A person who sells the goodwill of his business is under no obligation to retire from the field. Trade he undoubtedly may, and in the very same line of business. If he has not bound himself by special stipulation, and if there is no evidence of the understanding of the parties beyond that which is to be found in all cases, he is free to carry on business wherever he chooses. But, then, how far may he go ? He may do everything that a stranger to the business, in ordinary course, would be in a position to do. He may set up where he will. He may push his wares as much as he pleases. He may thus interfere with the custom of his neighbour as a stranger and an outsider might do ; but he must not, I think, avail himself of his special knowledge of the old customers to regain, without consideration, that which he has parted with for value. He must not make his approaches from the vantage-ground of his former position, moving under cover of a connection which is no longer his. He may not sell the custom and steal away the customers in that fashion. That, at all events is opposed to the common understanding of mankind and rudiments of commercial morality, and is not I think to be excused by any maxim of public policy."

The House did not decide whether the obligation not to solicit arose from implied contract or on the principle that the seller could not derogate from his own grant. As Lord Herschell expressed it, " the obligation exists and ought to be enforced by a Court of Equity." He went on to say that where, as in the case before the House, it had been agreed on the creation of a partnership that the goodwill should belong exclusively to one of the partners the position was the same as if the goodwill had been sold.

The principle was applied in somewhat different circumstances in *Jennings* v. *Jennings* [1898] 1 Ch. 378, where an action for rescission of a partnership agreement had been brought by one of the partners on the ground of the other's alleged misrepresentation. The action was compromised on terms (*inter alia*) that the partnership should be dissolved and one of the partners should pay £1,200, whilst the other should retain " the assets," goodwill not being specifically mentioned. The outgoing partner issued a circular to the customers of the late firm soliciting orders, and the continuing partner successfully claimed an injunction. Stirling, J., held that the relationship of vendor and purchaser existed and that, notwithstanding the omission of a specific reference to goodwill, the ordinary obligation of a vendor existed.

In *Curl Bros. Ltd.* v. *Webster* [1904] 1 Ch. 685, it was admitted that the defendant (one of the vendors of a business) had, on behalf of a company in which he was interested, solicited customers of the former firm, but the defence was that these customers had already of their own accord before being solicited dealt with the defendant's company, though they remained customers of the old firm. It was held that the *Trego* v. *Hunt* principle applied, that customers of the old firm did not lose that character because they also dealt with the new business, and the defendant was restrained from soliciting them.

Even though partnership articles provide that nothing " shall prevent either partner from starting a similar business in the neighbourhood after the expiration of the partnership," it has been held that the partner subsequently taking over the business is entitled to restrain the other from soliciting : *Gillingham* v. *Beddow* [1900] 2 Ch. 242.

It was held in *Walker* v. *Mottram* (1881), 19 Ch. 355, that when the goodwill of a business had been sold by the trustee in bankruptcy of the former owner the purchaser was not entitled to an injunction restraining the bankrupt from soliciting his former customers, the alienation in these circumstances being compulsory. This principle was further considered in *Green & Sons (Northampton), Ltd.* v. *Morris* [1914] 1 Ch. 562. Here the defendant, M, and some others who had carried on business in partnership, executed an assignment of all their property to a trustee for the benefit of creditors, and the trustee in due course sold the business assets, including goodwill, to the plaintiffs. The defendant, M, entered the employ of the defendant, S, at whose instigation he solicited former customers. The plaintiffs applied unsuccessfully for an injunction. Warrington, J., referring to *Walker* v. *Mottram, supra*, said he saw no rational distinction between that case and the one before him. In one sense, he went on, what the debtor did (i.e., assigning his property to a trustee) was voluntary ; in another sense it was not voluntary at all, as he might have taken the steps he did take in order to avoid other proceedings being taken by the creditors. A man divesting himself of his property under such circumstances did not thereby constitute the relation of vendor and purchaser between himself and the ultimate purchaser of the property.

An attempt to distinguish *Green & Sons (Northampton), Ltd.* v. *Morris, supra*, was made in *Farey* v. *Cooper* [1927] 2 K.B. 384. Certain debtors had executed an assignment of their property for the benefit of creditors to the plaintiff as trustee, and they had covenanted to aid to the utmost of their power in the realisation of their property. Whilst the plaintiff was carrying on the business with a view to the beneficial winding-up of the estate the debtors solicited orders from former customers on behalf of themselves and the defendant, C. The court of first instance held that the plaintiff was entitled to an injunction restraining them, but the Court of Appeal reversed the decision. It was held that the existence of the covenant by the debtors to aid the trustee did not alter the position. The court also refused to treat as a sound distinction from *Green & Son (Northampton), Ltd.* v. *Morris* the fact that the case being decided arose between the debtors and the trustee himself, and not a purchaser from him. Atkin, L.J., pointed out that if, instead of a deed of assignment, there had been a bankruptcy, the debtors would have been under no obligation to the trustee to abstain from soliciting the old customers of the business, and later in his judgment he said (quoting Warrington, J., in *Green & Sons' Case*) that for practical purposes the position must be treated as the same as in bankruptcy and the assignment must be treated as more or less involuntary.

The *Trego* v. *Hunt* principle, however, was applied in *Boorne* v. *Wicker* [1927] 1 Ch. 667, where the plaintiff and one J.W. carried on a business under a partnership deed

which contained provisions for dealing with the assets upon the death of either partner. J.W. died, and the defendant, who had been employed in the business, was one of the executors, but the plaintiff dismissed him not long after J.W.'s death. The defendant obtained employment elsewhere and canvassed customers of the late firm. Proceedings had already been commenced by the plaintiff claiming specific performance of the provisions in the partnership articles dealing with the deceased partner's share, and an interim order by consent had been made providing for the appointment of a proper person to ascertain the deceased's share. The plaintiff now moved in the action for an injunction restraining the defendant from canvassing the customers of the business, and Tomlin, J., made an order accordingly. The learned judge pointed out that, on the one hand, the defendant had entered into no covenant (in connection with his former employment) restraining him from soliciting the customers of the business; on the other hand, he was as an executor of J.W. bound to give effect to his testator's contract, and it was against common honesty that the defendant should be free at one and the same time to complete his testator's contract and to snatch away from the purchaser the property which he was affecting to convey to him.

Company Law and Practice.

The Statutory Prohibition against a Company Purchasing its own Shares —I.

The relevant section in the 1929 Act that deals with this matter is s. 45, and I think I had better quote the section in its entirety, in order that we may be fully aware at the outset of its terms; it reads as follows: "(1) Subject as provided in this section, it shall not be lawful for a company to give, whether directly or indirectly, and whether by means of a loan, guarantee, the provision of security or otherwise, any financial assistance for the purpose of or in connection with a purchase made or to be made by any person of any shares in the company: Provided that nothing in this section shall be taken to prohibit—

(*a*) where the lending of money is part of the ordinary business of a company, the lending of money by the company in the ordinary course of its business;

(*b*) the provision by a company, in accordance with any scheme for the time being in force, of money for the purchase by trustees of fully-paid shares in the company to be held by or for the benefit of employees of the company, including any director holding a salaried employment or office in the company;

(*c*) the making by a company of loans to persons, other than directors, bona fide in the employment of the company with a view to enabling those persons to purchase fully-paid shares in the company to be held by themselves by way of beneficial ownership.

(2) The aggregate amount of any outstanding loans made under the authority of provisos (*b*) and (*c*) to subsection (1) of this section shall be shown as a separate item in every balance sheet of the company.

(3) If a company acts in contravention of this section, the company and every officer of the company who is in default shall be liable to a fine not exceeding one hundred pounds."

We should observe also (as I have often pointed out before in similar circumstances) that the words "officer of the company who is in default," which occur in s. 45 (3), are, by s. 365 (2), given the meaning of "any director, manager, secretary or other officer of the company, who knowingly and wilfully authorises or permits the default," and the expression "director" includes any person occupying the position of director by whatever name called: s. 380 (1).

It will be seen that the wording of s. 45 (1) is very wide, and it was obviously intended to cover, in so many words, all the possible methods of a company purchasing or helping to purchase its own shares; which object it can, I think, well be said to have attained. The actual words used in the remainder of the section do not need comment here, with the possible exception of sub-s. (3), as to which the learned editors of "Buckley on the Companies Acts" observe that the penalty thereby imposed may prove inadequate to deter those who wish to do so from entering upon transactions of the type that is contemplated by the section. Their reason for making this criticism is the size which a transaction of this sort usually attains, and it may well be so. The penalty imposed is clearly sufficient to deter those who feel the inclination from indulging in a comparatively small engagement where little money is involved, but for those who participate in a transaction where they have at stake a possible gain sufficient to make payment of the penalty a small consideration, the size of the penalty certainly seems a minor deterrent. Furthermore, as we have seen, the default must be knowingly and wilfully authorised or permitted by the "officer" in question, and this may not always be an easy thing to bring home to the offender. When a director induces his company to acquire his shareholding at an enhanced price (this being perhaps the most obvious example where gain might accrue to the culprit), the proof of this knowledge and intention seems, *primâ facie*, a matter of little difficulty; but, nevertheless, it may well be that cases occur in which the necessity of such proof is an element on the side of the offender rather than one on the side of those who seek to impeach the transaction.

The section is one which made its first appearance in the Act of 1929, and that, perhaps, is an additional reason why we should give some time and attention to decisions which have led up to its incorporation in the statute book. The most important of these decisions for this purpose is that arrived at in the well-known case of *Trevor* v. *Whitworth*, 12 A.C. 409. The facts were, shortly, that a limited company was incorporated under the Joint Stock Companies Acts with the objects, as stated in its memorandum, of acquiring and carrying on a manufacturing business, and any other businesses and transactions which the company might consider to be in any way conducive or auxiliary thereto, or in any way connected therewith. The company's articles (not its memorandum) authorised it to purchase its own shares. The company having gone into liquidation, a former shareholder claimed against it for the balance of the price of his shares which he had sold to the company before the liquidation, and which were not wholly paid for. The House of Lords reversed the decision of the Court of Appeal, and held that such a company had no power under the Companies Acts to purchase its own shares, that the purchase was *ultra vires*, and that the claim must fail. In the words of Lord Macnaghten, at p. 433, ". . . the notion of a limited company taking power to buy up its own shares is contrary to the plain intention of the Act . . . and inconsistent with the conditions upon which, and upon which alone, Parliament has granted to individuals who are desirous of trading in partnership the privilege of limiting their liability"; the principal reasons for this inconsistency being that such a transaction amounts to a reduction of the company's capital, that the Legislature has seen fit to lay down, for the benefit of creditors of the company, certain stringent rules, which provide for due notice and judicial sanction for carrying out the operation of reducing capital, and that, were the principle permitted of a company being able to buy its own shares, there would then be no assurance to those dealing with the company that the whole of the subscribed capital, unless diminished by expenditure upon the objects defined by the memorandum, should remain available for the discharge of its liabilities. Lord Herschell asked (p. 416) the reason which induced the company in the present case to purchase its shares, and he remarked: "If it was that they might sel-

them again, this would be a trafficking with shares, and clearly unauthorised; if it was to retain them, this would be . . . an indirect method of reducing the capital of the company"; or, as Lord Watson put it, the first transaction would be "simply a speculation with the funds of the company, and the second, a permanent withdrawal of the money invested in them (i.e., the shares so purchased) from the trading capital of the company": p. 428. Furthermore, ". . . if a power to purchase its own shares were found in the memorandum of association of a limited company, it would necessarily be void": per Lord Macnaghten, at p. 437; his reason for saying so was that, in his view, a condition in the memorandum defining the capital and qualified in such a way would be repugnant and contradictory to itself, but it will be remembered that in *Trevor* v. *Whitworth* the power was given by the articles and not the memorandum.

So much for the facts of and some of the principles which emerge from *Trevor* v. *Whitworth*. It has been quoted and applied time after time, and I think s. 45 may be regarded as an attempt to condense its principles and endow them with statutory force. That being so, and for other and obvious reasons, the importance of the decision cannot be over estimated, and the learned editors of "Buckley" have prepared an excellent summary of the grounds of the decision and of the principles which it affirms—a summary which was quoted with approval by Romer, J., in *Kirby* v. *Wilkins* [1929] 2 Ch. 444, at p. 447: "(1) Purchase by a company of its own shares is not forfeiture or surrender or anything like it. Forfeiture is valid, the Act recognises it; the company parts with no money, but resumes dominion of a share upon which something has been paid, and this because a further payment cannot be obtained. Surrender may be valid, e.g., where the company could forfeit and the member dispenses with the formalities. Each case of surrender must be determined upon its merits. Where money is paid or consideration given by the company it is a purchase, and purchase is neither a forfeiture nor surrender." I do not propose to discuss further the question of forfeiture or surrender to-day, as both these matters have been the subject of these columns comparatively recently, and I must refer my readers thereto; but it is important to realise the distinction between a purchase by a company of its own shares and surrender or forfeiture. The second principle enunciated, which Romer, J., quotes in his judgment, at p. 448, is that the company cannot be a member of itself. This proposition was enunciated by Jessel, M.R., in *In re Dronfield Silkstone Coal Company*, 17 Ch. D. 76, at p. 83, when he said that the word "members" in the Act of 1862 does not mean the company itself but rather some other person or some other corporation, and that the purview of the whole of the Act was utterly inconsistent with the notion that the company could be registered as a member of itself; a commonsense proposition which was approved by Lord Watson in *Trevor* v. *Whitworth* (p. 424), his comment on it being that it could not be registered as a shareholder to the effect of becoming debtor to itself for calls, or of being placed on the list of contributories in its own liquidation. Romer, J., then continues with the third principle, which is that the purchase of its own shares is a reduction of capital, and the Act, in sanctioning reduction of capital under certain conditions and with certain restrictions, impliedly prohibits it unless the prescribed conditions and restrictions are observed; and he concludes with the last two, namely: "(4) The Act impliedly prohibits the return of capital to its members. The payment of capital to one shareholder is just as much a reduction of capital and just as detrimental to the interests of creditors as the payment of the same amount to all the shareholders rateably. (5) The transaction cannot be justified as "incidental" to the company's objects, e.g., in a private company where it is desired to keep the shares in the hands of a few. To the creditor whose interests the Act intends to protect it makes no difference what the object of the purchase is."

This case of *Kirby* v. *Wilkins* [1929] 2 Ch. 444 is interesting in this connection as an example of the difficulty that sometimes exists in deciding whether or not a certain transaction amounts to a purchase by a company of its own shares. A partnership business was sold to a company for a sum of money that was satisfied by an allotment to the vendors of a number of fully paid shares in the company. A mistake in the valuation resulted in the vendors being overpaid by the company, and in order to set the matter to rights, two of them, on their own behalf, and on behalf of their co-vendors, voluntarily transferred to the chairman of the board of directors of the company 3,000 of the fully-paid shares so allotted, upon trust to sell or use them for the benefit of the company. An action was commenced by one of the vendors and a shareholder, not being one of the vendors, against the chairman and the company, in which the plaintiffs claimed that the defendant held the shares in question as trustee for the individual shareholders in the company, and in which they sought an injunction restraining him from voting as the holder of the shares, at any meeting of the company. In the course of his judgment, Romer, J., said that it was difficult to see which of the principles that I have quoted in the preceding paragraph was infringed by the transfer to the chairman. The company had not parted with one penny of its money, either in cash or money's worth; the company had not become a member of itself, for the member in respect of the 3,000 shares was the defendant; and the company had not purchased its own shares nor had its capital been reduced, for the issued, nominal, and paid-up capital remained precisely what it was previously. As to the proposal by the defendant to exercise his voting power in respect of the shares, in the opinion of Romer, J., the company did not become a member of itself merely because a trustee of certain shares votes in respect of those shares as he may be from time to time directed by the company; and he saw no reason why shares should not be held upon trust that the holder of them should exercise his voting power as the company might from time to time direct. He held accordingly (1) that, on the evidence, the chairman held the shares for the company's benefit on trust to sell them at his discretion, and (2) that no principle laid down by any of the decided cases had been offended by the transfer, and that the transaction was not rendered invalid because the transferee was a nominee on trusts which involved an obligation on the trustee to vote in respect of the shares in accordance with the company's directions.

(*To be continued.*)

Landlord and Tenant Notebook.

Substituting a Tenant.

A SOMEWHAT remarkable judgment was delivered by Erle, C.J., in the case of *Dawson* v. *Lamb* (1853), 3 C. & K. 269. The claim in the action was for use and occupation, the defence "never indebted." The facts proved were that the plaintiff, being tenant to one H, let the defendant into possession of the property during the term. Whether there was or was not a covenant against alienation is not stated, but at all events plaintiff and defendant went round to see Mr. H, who refused a request that he should both take the defendant as tenant and exonerate the plaintiff. Some nine months later H informs the plaintiff that he cannot get three quarters' rent from the defendant and the plaintiff must pay him; the plaintiff did, and now sued for that amount.

The learned judge commenced by saying: "It is very common for a landlord not to let off the outgoing tenant, although he consents to the new tenant going in." The description of the plaintiff as an "outgoing tenant" seems singularly unhappy; the expression is applied to those whose terms are about to expire or have expired. Nor can one see the significance of the consent, which, if it had to be granted and were granted unconditionally, would not of itself modify

the liability of a grantee of the term. The judgment, after mentioning the payment by the plaintiff, proceeds: "The plaintiff and defendant see Mr. H, who says he has no objection to the defendant becoming tenant, but says he will not exonerate the plaintiff. This often happens, and the landlord gets the rent from the *under tenant*, if he can; and if he cannot, the outgoing tenant remains liable." Judgment for the plaintiff accordingly.

Of course, I am not criticising this judgment from the point of view of the merits of the case itself; if it had been the utterance of an arbitrator, it might call for praise. But as a guide to practitioners who may be asked to advise people in, say, the plaintiff's position, it is not satisfactory. Suppose one were asked whether distress could be levied. From a legal point of view, one would, apart from this authority, be inclined to say that the proper claim was for indemnity, to be founded on an implied agreement; but Erle, C.J., while making it quite clear that the client would not be a surrenderor, leaves us in some doubt as to whether he is assignor or mesne tenant. The reference to the getting of rent from the *under* tenant is puzzling, the only explanation consistent with established and known law being that the old occupier was mesne tenant all the time, and that he and not the new occupier is to be credited with such payments.

From a landlord's point of view, it is better to regard such newcomers as tenants, even if no proper assignment be executed. A simple case illustrating the operation of such an arrangement is *Phipps* v. *Sculthorpe* (1817), 1 B. & Al. 50. In 1815 the plaintiff had let business premises to one N.F., the tenancy being determinable by six months' notice. When it had run for two months the defendant approached the plaintiff; said N.F. owed him (the defendant) money; mentioned that the defendant had some stock; and asked to be substituted for him, offering the plaintiff a quarter's rent. So it was agreed that the defendant should "stand in N.F.'s shoes." When in 1817 he was sued for use and occupation, he attempted to set up that N.F. still had the legal interest. The answer was, of course, that he could not call the plaintiff's title in question.

Without some agreement or recognition the landlord may be in a difficulty. In *Hyde* v. *Moakes* (1831), 5 C. & P. 42, the plaintiff had granted a lease to W, in 1819. In 1824 the defendant and a partner were in possession; how this came about did not appear. The partners paid rent till 1828. In 1828 the partnership was dissolved; the defendant wrote that he would continue occupation. In the action the plaintiff claimed rent as from an assignee, or damages for use and occupation in the alternative. The former claim failed because no assignment was proved; the latter because there was no express substitution.

For an instance of substitution bringing about surrender by operation of law, there is *Lawrence* v. *Faux* (1861), 2 F. & F. 435. In 1852 the plaintiff, by a written agreement, let a house to the defendant's brother. Later in the same year by another written agreement he let a yard and buildings, and part of the property let by the first agreement, to the defendant; and a memorandum at the foot of the document recorded that the brother consented to the transfer of his interest to the defendant. In 1855 the brother called on the plaintiff and told him he was to have the yard and buildings again; he paid the plaintiff £30 and got a receipt mentioning "also the yard and buildings, late his brother's." A receipt for rent in 1857 was made out in favour of both brothers; in 1859 there was a receipt made out to the defendant's brother only. The action was for use and occupation and for breach of a covenant to yield up in good repair, but the plea of discharge before breach succeeded, for the defendant's tenancy had been surrendered by operation of law.

Mr. Arthur Riley Gillman, retired solicitor, of Boscombe, left £16,825, with net personalty £16,008.

Our County Court Letter.

TOTALISATORS AND THE GAMING ACTS.

In a recent case at Bakewell County Court (*Tote Investors Ltd.* v. *Bell*) the claim was for £26 9s. as money paid by the plaintiffs for and on behalf of the defendant. The plaintiffs' case was that, on the instructions of the defendant, they had invested the amount claimed in their totalisator at race meetings and greyhound race meetings. The plaintiffs merely took a percentage of the money invested, and distributed the balance among the successful backers (of horses or dogs) according to the results of the race—at odds worked out on the totalisator. The defendant admitted authorising the investment of the amount claimed, but contended that the sums were irrecoverable, owing to the provisions of the Gaming Acts. In a reserved judgment, His Honour Judge Longson held that there was no question of any mutual chance of gain and loss, such as was necessary to bring a case within the description of a gaming transaction. The contract sued upon was between the company and an individual, i.e., not a contract between the various entrants into the pool. Judgment was therefore given for the plaintiffs, with costs. Compare *Streatham Cinema Ltd.* v. *John McLauchlan Ltd.* [1933] 2 K.B. 331.

DAMAGE TO CATTLE ON RAILWAYS.

In *Townsend* v. *London Midland and Scottish Railway Co.*, recently heard at Rugby County Court, the claim was for £35, as damages for negligence. The plaintiff's case was that a thoroughbred cow, giving six gallons of milk a day, had gone through a gap in the hedge, separating his field from the railway, and had been killed by a train. The defence was that the hedge was 4 feet 6 inches high, and was satisfactory. No complaint had been made about any weakness in the hedge, and the plaintiff (by putting his prize herd in the particular field) had been guilty of contributory negligence. His Honour Judge Drucquer held that the hedge was weak, at the point at which the cow went through. The plaintiff, however, knew of the weakness in the hedge, in spite of which he had put his cow in that field. The claim therefore failed, and judgment was given for the defendants, with costs, subject to a stay of execution for twenty-one days. Compare *Symons* v. *Southern Railway Co.* (1935), 51 T.L.R. 491.

THE REMUNERATION OF DIRECTORS.

In *West Hartlepool Ice and Cold Storage Co.* v. *MacAlpine*, recently heard at West Hartlepool County Court, the claim was for the return of £25, and the counter-claim was for £25 as a director's fee, due to the defendant, for the year ending 31st March, 1934. The plaintiff company's case was that, in 1932, the directors resolved that no fees should be paid to them, as hitherto, and that the future policy should be to restrict dividends and create reserves. No fees were then claimed by directors until the 16th October, 1934, when a directors' meeting agreed that the directors should each be paid a fee of £25 for the year ending 31st March, 1935. The amounts were duly paid to five directors, who were afterwards asked to return them. Three did so, but the defendant (the chairman) and another director contended that they had never waived their fees for 1934, and they therefore claimed an equivalent amount for that year. His Honour Judge Richardson held (in a reserved judgment) that the directors had no power to fix their own remuneration at a directors' meeting. They only had power to advise the shareholders that the reason for the waiving of fees, as resolved in 1932, no longer existed. The resolution of 1932, the absence of any mention of fees in the balance sheet of 1934, and the absence of any claim by a director, until after the proceedings had started, showed that, in accordance with the resolution of 1932, fees for the year ending 1934 were waived. Judgment was therefore given for the plaintiff company on the claim and counter-claim, with costs.

LIABILITY FOR BURNING REFUSE TIPS.

In *Venables* v. *Guthrie*, recently heard at Liverpool County Court, the claim was for £95 as damages for nuisance. The plaintiff, in December, 1933, had commenced poultry farming with 336 pure-bred, blood-tested birds, most of which were Rhode Island Reds and Leghorns. In November and December, 1934, the defendant brought a quantity of fire salvage stock, such as motor tyres, to his land from the North Western Rubber Co., of Bootle. On the 30th January, 1935, the dump took fire, through spontaneous combustion, and could not be put out. Thereafter choking fumes spread over the poultry farm, and the young birds, on hatching out in April and May, had inflammatory catarrh of the eyes, throat and nose. In July, between 200 and 300 were killed, on the advice of a veterinary surgeon, whose evidence was that the birds were not diseased, as alleged by the defence. His Honour Judge Dowdall, K.C., held that the plaintiff had not made out his case that the fumes had caused the death of the birds. Judgment was given for the defendant, with costs. Compare *Job Edwards Ltd.* v. *Birmingham Canal Navigation* [1924] 1 K.B. 341; 68 Sol. J. 501.

BAD WEATHER AND CONTRACTUAL LIABILITY.

In the recent case of *Cumberland & Son* v. *Ratty*, at Sheffield County Court, the claim was for £75 as damages for breach of contract. The plaintiffs were wholesale fruiterers, and had ordered two tons of holly, which the defendant failed to deliver. His reason was that, between the 10th and 12th December, heavy snow had fallen in Herefordshire, and the result was that the birds ate the holly berries, and stocks were depleted. The contention for the defence was that, owing to the impossibility of performance, the contract was avoided. His Honour Judge Frankland accepted the defendant's version, but held that, as a definite contract had been made, the plaintiff was entitled to judgment, with costs.

Reviews.

Ultra Vires in its Relation to Local Authorities. By David J. Beattie, LL.M.(Vict.), Solicitor of the Supreme Court, Assistant Solicitor to the Beckenham Corporation. 1936. Demy 8vo. pp. xxxix and (with Index) 323. London, Liverpool, Birmingham and Glasgow: The Solicitors' Law Stationery Society, Ltd. 25s. net.

In indicating the extent to which the doctrine of *ultra vires* applies to local authorities the author has broken new ground and produced a work which should be of real service to members of each branch of the legal profession as well as to those engaged in local government administration. After an introduction dealing with the origin, scope and application of the doctrine, its significance in regard to the funds, expenses, expenditure and borrowing powers of local authorities is explained. Further chapters are concerned with the acquisition, user, and alienation of property in light of the doctrine, and with contracts and torts. The making of bye-laws—one of the most important matters upon which the notion *ultra vires* bears—is treated in an admirable chapter, while the value of the book for reference purposes is enhanced by the resumé of the general and specific powers of making bye-laws vested in local authorities. The index appears to have been carefully prepared.

Prisoners' Progress. By Colonel S. G. Partridge, C.M.G., C.B.E. (formerly Assistant Secretary, New Scotland Yard). 1935. Royal 8vo. pp. (with Index) 287. With twenty Illustrations. London: Hutchinson & Co. (Publishers), Ltd. 18s. net.

No one who seriously studies the social history of England should miss reading this book. Accurate and original research together with a delightfully easy style have produced a work of the most absorbing interest, as well as of very high value. Its main theme is the prison system of the first half of the nineteenth century, and those who believe that then was the golden age will be utterly disenchanted, for the author's scope is wider than his title suggests, and his analysis of the labourer's life in country, as well as town, presents such a picture of hopeless, helpless, broken misery, almost universal, as will horrify and astonish those who look back to the good old Pickwickian days of a century ago. Such were the fruits of the Enclosure Acts and the industrial revolution. Of the treadmill, the hulks, the gaol, the penal settlements in the Antipodes, with their callous brutality, the book tells a story which would be incredible were it not so conscientiously documented. The printing is very attractive in spite of a number of misprints which have slipped past the proof readers (e.g., "Mr. Justin Coltman"), and the illustrations have a special excellence.

Judgment Summonses in the High Court of Justice, in Bankruptcy. By C. W. Chandler, Barrister-at-Law, of the High Court of Justice. In Bankruptcy. 1936. Demy 8vo. pp. xi and (with Index) 108. London, Liverpool, Birmingham and Glasgow: The Solicitors' Law Stationery Society Ltd. 7s. 6d. net.

The recent efforts to restrict "imprisonment for debt"—a convenient, if inaccurate phrase—have added to the difficulties of obtaining a committal order. The procedure by judgment summons is available in the various county courts, in the divorce court, and also in the bankruptcy court, but the procedure varies in each case. The difficulties in bankruptcy are increased by the circumstance that a bankrupt is not necessarily the victim of misfortune. The practitioner has also to reckon with the well-educated type, including many who are astute to utilise every means of evading their just obligations. To those who have to combat the wiles of such debtors, this book will be invaluable. Meticulous details are given of each step in the proceedings, and there are appendices of the relevant statutes, orders and forms. The statement of "Principles on which s. 5 of the Debtors Act, 1869, is administered" is set out in full, in accordance with the pronouncement of the judges exercising bankruptcy jurisdiction in *In re a Debtor* [1935] W.N. 128. The table of cases extends to more than three pages, and the decisions are included to the end of 1935. Reference may easily be made to doubtful points, so that a reader, with no previous experience of the subject, can familiarise himself with the procedure, which is rapidly increasing in importance.

Books Received.

The Estates Gazette Digest of Cases, 1935. Edited by Donald McIntyre, B.A., LL.B. (Cantab.), of Gray's Inn and the South-Eastern Circuit, Barrister-at-Law. 1935. Demy 8vo. pp. xii and (with Index) 471. London: The Estates Gazette, Ltd. 15s. 6d. post free.

Mew's Digest of English Case Law. Second Edition. Eleventh Annual Supplement, 1935. By G. T. Whitfield Hayes, Barrister-at-Law. 1936. Royal 8vo. pp. xx and 346. London: Sweet & Maxwell, Ltd.; Stevens & Sons, Ltd. £1 net.

The Stock Exchange Official Year-Book, 1936. Compiled and Edited by the Secretary of the Share and Loan Department of the Stock Exchange. Crown 4to. pp. cexx and 3458. London: Thomas Skinner & Co. £3 net.

Reflections and Recollections. By His Honour J. D. Crawford. 1936. Demy 8vo. pp. 288. London: Marchand Press, Ltd. 12s. 6d. net.

[All books acknowledged or reviewed can be obtained through The Solicitors' Law Stationery Society, Limited, London, Liverpool and Birmingham.]

POINTS IN PRACTICE.

Questions from Solicitors who are Registered Annual Subscribers only are answered, and without charge, on the understanding that neither the Proprietors nor the Editor, nor any member of the Staff, are responsible for the correctness of the replies given or for any steps taken in consequence thereof. All questions must be typewritten (in duplicate), addressed to the Editorial Department, 29-31, Breams Buildings, E.C.4, and contain the name and address of the Subscriber. In matters of urgency answers will be forwarded by post if a stamped addressed envelope is enclosed.

Position of Co-Parceners UNDER THE TRANSITIONAL PROVISIONS OF L.P.A., 1925.

Q. 3284. B died in 1924 intestate, leaving four unmarried daughters, who had all attained twenty-one. Administration to B's estate was taken out by one of the daughters. The estate comprised, *inter alia*, a freehold house and premises. The administration of the estate was completed before 1st January, 1926, and the four daughters have, since 1925, shared the income from the property. The question now arises whether a formal assent ought to be executed by the administratrix in favour of herself and her three sisters as joint tenants. This has not been done before, as it was thought the property might be sold, in which case title could be made through the administratrix. The property has not, and is not likely to be sold in the near future, and it is thought that an assent ought now to be executed to obviate complications should the administratrix die. Do you agree, and if so, can you refer to a precedent ?

A. This question raises the difficult point of whether co-parceners held in undivided shares within L.P.A., 1925, Sched. I, Pt. IV. Although from one point of view, co-parceners were joint tenants, yet their joint tenancy was of a very peculiar type, in that there was no right of survivorship, each co-parcener could dispose of her share by will, and on her intestacy her share passed to her heir. That being so, there is much in favour of the view that they held in undivided shares for the purposes of the transitional provisions of L.P.A., 1925. If that is correct, then on 1st January, 1926, the legal estate vested in the administratrix upon the statutory trusts (L.P.A., 1925, Sched. I, Pt. IV, para. 1 (1)). If, on the other hand, they did not hold in undivided shares for the purposes of the transitional provisions, the administratrix holds upon trust for sale (L.P.A., 1925, s. 36). In view of our remarks above, while it seems desirable to take some action, an assent is definitely not indicated. We suggest that the administratrix, after suitable recitals (including a recital of non-assent, etc.), should convey to herself and three sisters (free from all trusts affecting the same in her hands and from all her claims thereon as administratrix) as joint tenants, upon trust for sale, with power to postpone sale, and to stand possessed of the net proceeds, and of the net rents and profits pending sale, upon trust for themselves absolutely and beneficially as joint tenants or tenants in common, as they may agree. A power of leasing mortgage and general management pending sale equal to that of absolute owners should be included in the deed.

Marriage Settlement—WIFE BECOMING ABSOLUTELY ENTITLED TO TRUST FUNDS—WINDING UP OF TRUST.

Q. 3285. Under the provisions of a marriage settlement dated 8th May, 1894, the trustees were directed to stand possessed of the trust property, " If there should be no child of the marriage . . . in trust for the wife absolutely if she should survive the coverture. . . ." There are no children, and the husband has recently died, so that it would appear from the foregoing that the wife is thus entitled to the whole of the trust property (all of which was in fact brought in from her side in the first place). The trust estate consists of various investments and a freehold residence which was bought by the settlement trustees out of trust funds and which the widow now occupies. It would appear desirable, in the foregoing circumstances, that the trust should be wound up and the various stocks and the property mentioned transferred into the name of the widow. Is she entitled to demand this procedure as of right ? Or, on the other hand, would there be any objection to the various items remaining vested in the trustees, as at present ?

A. It is the duty of trustees to hand over the property to a person absolutely entitled, or perhaps the position may be better expressed by saying that the person absolutely entitled may say " hand over the fund to me." See *Re Smith P.T.* v. *Aspinall* [1928] Ch. 915. With regard to the house, if it was conveyed upon trust for sale the widow, being absolutely entitled to the proceeds, may elect to accept it as realty. If it was not conveyed upon trust for sale, the widow may possibly have occupied the position of tenant for life (see L.P.A., 1925, s. 32, and *Re Hanson, H.* v. *Eastwood* [1928] Ch. 96), and in this case the right of the widow may arise under the S.L.A. as the person absolutely entitled. The trustees can justify retaining the funds and house if the widow requests them to do so, but they will, of course, be liable for breaches of trust hereafter committed unless they are committed at the request of the widow. Consideration must be given to the question of death duties.

Distress for Rent.

Q. 3286. A landlord of a decontrolled house (which was let on a weekly tenancy at £1 per week) gave the tenant on Tuesday, the 3rd September, 1935, a notice to quit and deliver up possession of the premises on Monday, the 16th September, 1935. The tenant has ignored the notice and remained in possession. On the 16th September, 1935, the arrears of rent amounted to £6 4s. 3d. No rent or payment on account of these arrears has been paid since that date.

(1) Was it permissible for the landlord to levy distress at any time within thirty days after the 16th September, 1935, although the occupier is now a trespasser, so that the relationship of landlord and tenant no longer exists ?

(2) If so, and if distress were levied within seven days after the 16th September, 1935, would it have been permissible for the landlord, under the proviso to s. 4 of the Law of Distress Amendment Act, 1888, to distrain upon goods which would otherwise be privileged, such as beds and bedding and tools of trade up to £5 in value ?

If so, it follows that if a landlord acts promptly (i.e., within seven days after the expiry of the notice to quit) he can in many cases clear everything out of the house of an unfortunate or recalcitrant occupier.

A. (1) It was permissible for the landlord to levy the distress, but, by so doing, he ran a grave risk of waiving the notice to quit and so creating a fresh tenancy. He may show that the distress was limited to the arrears accrued due before the expiration of the notice to quit, in which event he was within his rights.

(2) If distress were levied within seven days, the landlord would not be entitled to distrain upon goods otherwise privileged. To gain this right he must allow seven days to elapse after demand. The proviso to s. 4 (quoted in the question) reads " and where the distress is made not earlier than seven days after such demand."

(3) The contrary is the case to that suggested. The landlord must not act promptly, but must first make his demand and then allow seven days to pass, before distraining.

To-day and Yesterday.

LEGAL CALENDAR.

23 MARCH.—A sensational trial took place at the Lancaster Assizes on the 23rd March, 1827, Edward Gibbon Wakefield, by a concocted story of her father's financial ruin, had lured a fifteen-year-old heiress away from school, and persuaded her to go to Gretna Green and marry him. The relatives had found them at Calais and he had returned to England to stand his trial. The result was three years' imprisonment, and the marriage was annulled by statute. Yet Gibbon comes down to us as a distinguished colonial statesman and Empire builder. After his release, he rose to great influence in Australia, and it is largely due to his energy that New Zealand is British to-day and not French.

24 MARCH.—On the 24th March, 1582, Chief Justice Dyer died at Great Staughton, in Huntingdonshire, at the age of seventy.

25 MARCH.—On the 25th March, 1850, Elias Lucas stood in the dock at the Cambridge Assizes on a charge of poisoning his wife, and her young sister, with whom he was carrying on an intrigue, stood with him. She had been taken ill and died from one day to another, but the attention which the prisoners had shown her and the speed with which the husband had ridden for medical help would probably have allayed suspicion had not the dead woman's father suggested that the doctor, who arrived too late, should look at the corpse. The result was the refusal of a burial certificate and an examination of the stomach at Guy's Hospital revealing quantities of arsenic. The prisoners were convicted of murder.

26 MARCH.—To this day we are still worrying about the Irish question. In 1868, a man named O'Farrell thought he could answer it by shooting H.R.H. The Duke of Edinburgh in the back at a picnic near Port Jackson, in New South Wales. An unappreciative assembly nearly added to the list of Irish wrongs by lynching him on the spot, but he was with great difficulty preserved, and on the 26th March was brought up for trial at Darlinghurst on a charge of attempting to murder the Duke. He was convicted and hanged.

27 MARCH.—On the 27th March, 1846, Samuel Yarham was tried at Norwich before Maule, J., for the murder of Harriett Candler, an old woman who kept a shop in Yarmouth. There was a great crowd in court, for the case had created a sensation throughout the country. At first when the woman was found battered to death behind her counter there was no clue. Then the discovery of a quantity of money belonging to her, hidden in the sandhills, had led to the arrest of the prisoner and three other men. Thereupon, while denying his own complicity, he offered to give evidence against them and was discharged, but at the trial they were acquitted. Then new evidence came to light and he was re-arrested. He was convicted and hanged.

28 MARCH.—On the 28th March, 1835, Henry Bickersteth, newly appointed Master of the Rolls, was raised to the peerage as Lord Langdale. In Parliament he confined his energies to the promotion of judicial reforms, and every proposal that tended to render justice more easily accessible and to diminish its expense had his hearty support. He lived to see the good effects of many of the measures which he promoted. He resigned his office in 1851.

29 MARCH.—One would think that death sentences *pro forma* passed with certainty of commutation had outlived their usefulness. So long have they been part of judicial routine that recognition of degrees in murder seems overdue. Consider the case of Mary Jones, at the Kingston Assizes, on the 29th March, 1859. She was a handsome girl of nineteen and stood charged with the murder of her illegitimate child by cutting its throat immediately after birth. No counsel appeared on either side. She "sobbed out a few unconnected words to the effect that she was in such agony at the time that she did not know what she was about," heard the death sentence, and was carried out insensible. Sentence was, of course, commuted.

THE WEEK'S PERSONALITY.

Throughout his career, James Dyer seems to have been a paragon. When he left Oxford we are told that:—

"And so from thence he was in Strand Inn plaste;
But him with fame the Middle Temple graste.
The depth of law he searcht with painefull toyle,
Not cunning quirks the simple man to spoyle."

He has been described as the Shakespeare of Law Reporters, attending the courts daily with his notebook and taking down the arguments and judgments in all the important cases. In the evening he digested and abridged his notes into a lucid report of each decision, improving infinitely on the chaos of the Year Books and leaving a model which succeeding reporters adopted. In practice we are told:

"He with much care his clyents' wrongs redrest
By virtue thus he clymede above the rest,
And feared no fall since merit was his guide
When reaching heads ofte slip in cheifest pride."

Thus, in twenty-two years, he climbed to the place of Chief Justice of the Common Pleas in 1559, well gracing the Bench:

"And when he spake he was in speeche reposde;
His eyes did search the simple suitor's harte,
To put by bribes his hands were ever closde,
His processe just he tooke the poore man's parte."

And when he died, it was said of him:

"Alive refuge of those whom wrongs did paine
A Dyer such as dy'de without a stayne."

A NARROW ESCAPE.

A Swedish judge recently had a narrow escape when a lawyer who had been discharged from the post of Public Prosecutor in the locality of Nykoeping emptied two revolvers in court, killing his successor and a defendant. An assistant magistrate sitting with the judge was only saved by the fact that he had just lifted up a thick legal tome to consult it. A bullet buried itself in the book. Judge Parry had an even more exciting experience in Manchester County Court on the eventful day when he was compelled to withdraw the certificate of a bailiff there. As he concluded his judgment, a barrister on his right rose to make an application. He turned his head to ask him to wait a moment, and the movement probably saved his life, for at that instant there was an explosion and a bullet ran along the side of his jaw tearing the muscles. Had he not turned his head, it would have smashed his face. A second bullet struck him and a third missed. Then the frantic bailiff was overpowered, firing, as he fell, a final shot that went through the plaster of the wall. The classic instance of a narrow escape was the occasion when a prisoner threw a brickbat at Chief Justice Richardson, at Salisbury. Just at that moment he happened to bend down, and the missile only knocked off his cap. "You see, now," he said, "if I had been an upright judge, I had been slaine."

BRIBERY WITHOUT CORRUPTION.

A recent letter in the *Sunday Times* recalled the story of the Indian litigant who, having been told by his counsel that he would certainly lose his case if he sent the judge a bribe, prudently sent one in his opponent's name and won. Attempts of that sort, of course, take different judges in different ways. One conscientious Irish judge, on receiving a haunch of venison from a baronet whose case was shortly to come before him, sent it back with an indignant message, but, subsequently, when he related the incident to Chief Justice Monaghan, that sage told him: "My dear fellow, you should have taken the scoundrel's haunch, eaten it and sent him to gaol for contempt of court." On the other hand, Baron Martin was

so amused when a prisoner convicted before him tried to play on his sporting proclivities by pleading: "I hope your lordship will not be too hard upon me; and perhaps your lordship will accept a beautiful gamecock I have at home," that he let him off with a sentence that was not severe. But he added: "Mind, you must not send me that gamecock." A Welshman with a case at the Cardiganshire Assizes was once rash enough to send Baron Alderson a statement of his case with a £10 note, and only escaped prosecution by the plea of having acted in ignorance.

Obituary.

MR. D. C. DELFOSSE.

Mr. Douglas Cosmo Delfosse, solicitor, of Kington, Herefordshire, died in a nursing home at Shrewsbury following an operation. Mr. Delfosse was admitted a solicitor in 1880.

MR. T. Y. RITSON.

Mr. Thomas Youdale Ritson, solicitor, of Bolton, died on Saturday, 21st March, at the age of seventy-three. He was admitted a solicitor in 1889. Mr. Ritson had been player, director and chairman of Bolton Wanderers Football Club, and was senior vice-president of the Lancashire Football Association.

MR. E. A. RYALL.

Although he was not a member of the legal profession, we feel that we should publish here a notice of the death of Mr. Ernest Alfred Ryall, who must have been well known to many of our readers as Chief Cashier of The Law Society. Mr. Ryall, who was in his fifty-ninth year, died at Leigh-on-Sea, on Saturday, 21st March. He had been in the service of The Law Society for thirty-eight years, and for the past fourteen years had been its trusted chief cashier.

Correspondence.

[*The views expressed by our correspondents are not necessarily those of* THE SOLICITORS' JOURNAL.]

Conveyancing Scales—Note (80 SOL. J. 218).

Sir,—It is difficult to understand the mind of The Law Society, which as a body accepts the principle of a solicitor acting in a dual capacity in respect of a mortgage, and yet rejects the same thing in the negotiation of the loan.

The Order of 6th July, 1925, definitely lays down the direction: "There shall be added to Part I of Schedule I of the Order of 1883 the following item." Following these directions, and adding the item itself, the mortgagor solicitor's fee for negotiation is, by law, added to Sched. I, Pt. I, and governed by r. 3 (not r. 5 as mentioned by you) applying to that schedule.

There should, therefore, be no doubt as to the legality of this charge, any more than in the case of the mortgage itself. It may interest your readers to know that the Administration and Management Department after consideration, and notwithstanding the production of a print of The Law Society's opinion of 22nd April, 1926, adopted the above view, and allowed on taxation a fee of $1\frac{1}{4}$ per cent. as the negotiation fee properly payable in such cases. "COSTS CLERK."

24th March.

Mr. Gerald Maltby Todd, solicitor, of Duke-street, S.W., and of Southampton-street, left property of the value of £23,209, with net personalty £23,009. He left a silver rose bowl and two silver casters to the Worshipful Company of Wax Chandlers, £50 to the Staff Benevolent Fund of the Union Club, £25 to the Staff Benevolent Fund of Brooks's Club, and £50 to the Old Cliftonian Society.

Notes of Cases.

Judicial Committee of the Privy Council.

Nazir Ahmad *v.* **The King-Emperor.**

Lord Blanesburgh, Sir Shadi Lal and Sir George Rankin. 20th January, 1936.

INDIA — CRIMINAL LAW — PRACTICE — SPECIAL LEAVE TO APPEAL AGAINST CONVICTION—CONSTRUCTION OF IMPORTANT STATUTORY PROVISION—DIVERGENT JUDICIAL OPINIONS—PRINCIPLE ON WHICH LEAVE GRANTED—CODE OF CRIMINAL PROCEDURE (ACT V OF 1898), S. 164.

Petition for leave to appeal, *in forma pauperis*, from a judgment of the High Court at Lahore, given on the 10th October, 1935, affirming the conviction of the petitioner by the Additional Sessions Judge at Lyallpur on the 16th April, 1935, of murder in the commission of dacoity. The petitioner was sentenced to death. The petition raised the question whether a magistrate's failure to record, as required by s. 164 of the Code of Criminal Procedure, a confession made to him by the petitioner rendered evidence of that confession given by the magistrate inadmissible.

LORD BLANESBURGH, in giving their Lordships' decision to grant special leave to appeal, said that they desired to reaffirm in this case the very exceptional circumstances in which alone they would humbly advise His Majesty leave to appeal in a criminal case. They would not have it supposed that the advice which they proposed to tender to His Majesty in this case indicated any weakening on their part of the most salutary judicial rule which prevented the Board from entertaining such applications, the Board not being a court of criminal appeal, save in the most exceptional circumstances. What actuated the Board in advising His Majesty to grant leave to appeal in this instance was that it appeared that, with reference to a section of the Code of Criminal Procedure which was of vital importance to accused persons, there had been a difference of opinion in the High Courts of India which, however it might be resolved, ought to be resolved, in order that there would, in the future, be no doubt as to the law declared by that section. It was not a case where a view had been taken by the High Court. Whether that view were right or wrong, there would not, in those circumstances, be any justification for the Board's entertaining an application for special leave to appeal. The case was one where there was a pronounced difference of opinion on a most important question among some of the High Courts in India, and it was because their Lordships thought that it would be salutary that that doubt and difference of opinion should be finally resolved that they would in this case humbly advise His Majesty to grant special leave to appeal.

COUNSEL: *C. Sidney Smith*, for the petitioner; *W. Wallach*, for the respondent.

SOLICITORS: *Hy. S. L. Polak & Co.; Solicitor, India Office.*

[Reported by R. C. CALBURN, Esq., Barrister-at-Law.]

Caldeira *v.* **Gray.**

Lord Alness, Lord Maugham and Sir Sidney Rowlatt. 14th February, 1936.

TRINIDAD AND TOBAGO—JUDGE SITTING ALONE—ISSUE PURELY OF FACT—APPEAL TO PRIVY COUNCIL—FUNCTION OF APPELLATE COURT.

Appeal from a decision of Manning, J., sitting as a judge of first instance in the Supreme Court of Trinidad and Tobago.

The respondent was treated by the appellant, Caldeira, a doctor, for malarial fever. He alleged that the appellant treated him negligently and unskilfully by inserting the needle of a hypodermic syringe into the sciatic nerve in his right buttock and injecting quinine into it, or, alternatively, by injecting quinine so near to the sciatic nerve as to injure it.

The respondent alleged that immediately after the operation he walked with a dropped right foot. He brought an action for damages against the appellant, who denied the allegations, and obtained judgment for £864 3s. 4d.

Lord Alness, in delivering their lordships' judgment, said that the first observation to be made was that their lordships were admittedly confronted with a pure question of fact for determination. There was no question of law at issue between the parties. It was agreed that the respondent must, if he was to succeed, demonstrate beyond reasonable doubt that the appellant had been negligent, and that his negligence had caused the injury complained of. Their lordships were of opinion that, had the case been tried by a judge and jury, an appeal against a verdict for the respondent would be well-nigh hopeless. There had been ample evidence to support such a verdict. The case had, however, been tried by a judge alone, and the distinction was, of course, important. The appellant was exercising a right of appeal which was undoubtedly his. They recognised that they could not, merely because the question was one of fact, abdicate their duty to review the trial judge's decision and to reverse it if they deemed it to have been wrong. Nevertheless, the functions of a court of appeal, when dealing with a question of fact, and one, moreover, in which, as here, questions of credibility were involved, were limited in character and scope. That was familiar law which had received many illustrations, the most recent being *Powell and Wife* v. *Streatham Manor Nursing Home* [1935] A.C. 243. Lord Wright in that case, at pp. 265 and 266, expressed a view which was in strict accord with previous authoritative expositions of the law in the same sense by Lord Loreburn and Lord Halsbury in two cases which appeared not to have been cited in *Powell's Case* (*supra*), namely, *Kirkpatrick* v. *Dunlop* [1916] S.C. 631, and *Taylor* v. *Burger* [1897] 35 S.L.R. 400. In order exactly to equiparate those decisions with the present case, a conflict of testimony between the appellant and the respondent would be required. Here there was none, because, while the appellant affirmed that he administered the injection within the safe area in the buttock, the respondent, not unnaturally, was unable to say precisely where the injection had been given. There had, however, been a sharp conflict of testimony between the expert witnesses. The judge had accepted the view of the medical men adduced as witnesses for the respondent and had rejected that of medical men called for the appellant. When the judge was assessing the relative value of the testimony of expert witnesses, as compared with witnesses of fact, their demeanour, type and personality might no doubt powerfully and properly influence his mind in deciding between them. Those advantages, available to the trial judge, were manifestly denied to their lordships. That appearing to be the proper avenue of approach to the problem before the Board, their lordships proceeded to consider the facts. Having done so, they observed that, whereas the respondent's theory as to his present plight was simple and straightforward, the appellant's theory was speculative and difficult. In any event, their lordships were clearly of opinion that, the respective theories having been carefully and dispassionately weighed by the trial judge, and a clear conclusion in fact having been reached by him, it would not be proper or safe, or in accordance with sound practice, that their lordships should reverse his conclusion. They would humbly advise His Majesty that the appeal should be dismissed.

Counsel: *D. N. Pritt*, K.C., and *Ronald Smith*, for the appellant; *H. J. Wallington*, K.C., and *Reginald J. White*, for the respondent.

Solicitors: *Druces & Attlee; Daphnes.*

[Reported by R. C. Calburn, Esq., Barrister-at-Law].

Port Talbot Town Council have decided to confer the Freedom of the Borough upon Mr. Moses Thomas, J.P., retiring Town Clerk. Mr. Thomas was admitted a solicitor in 1895.

House of Lords.

Williamson *v.* Ough (Inspector of Taxes).

Lord Hailsham, L.C., Lord Blanesburgh, Lord Russell, Lord Macmillan and Lord Roche. 2nd March, 1936.

Revenue — Income Tax — Will — Annuities to Testator's Children—Trustees empowered by Will to make up Deficiencies of Income by Payments out of Capital—Also empowered to recoup Capital out of future Income at their Discretion and "so far as practicable"—Whether Payments assessable to Income Tax—Income Tax Act, 1918 (8 & 9 Geo. 5, c. 40), Sched. D, Case III.

Appeal against a decision of the Court of Appeal (Lord Hanworth, M.R., and Slesser, L.J., Romer, L.J., dissenting) reversing a decision of Finlay, J., in favour of the present appellant.

By a testator's will his widow became entitled to an annuity of £6,000 for life as a first charge on the estate. The remaining income was to be divided equally between the widow and the testator's three daughters, of whom the appellant was one. The trustees of the will were empowered to pay the beneficiaries up to £500 a quarter, on account of income, out of the capital of the trust fund. Those payments were, so far as practicable, and as the trustees thought fit, to be recouped out of future income. The trustees made certain payments out of the capital to all the beneficiaries. No tax was deducted from the sums paid. None of the capital out of which they were raised had been recouped. For the years ended the 5th April, 1928 and 1929, payments of £2,000 and £500 respectively were made to the appellant to make up deficit of income and she was assessed to income tax under Case III of Sched. D to the Income Tax Act, 1918, in respect of them. For the appellant it was contended that those sums were loans by the trustees out of capital, and that if they were taxed there would be a double taxation, as the income from which the loans were ultimately repaid would also be taxed.

Lord Russell of Killowen, in the course of his speech, in which the other noble lords concurred, said that the Master of the Rolls and Slesser, L.J., had both construed the will as meaning that the trustees were empowered to make payments to the beneficiaries out of capital so as to secure them an income in any event, and had been of opinion that the payments did not create any debt from the beneficiaries, as the provision for recoupment merely enabled the trustees to replace capital out of future income if they thought fit. He (the noble lord) agreed with that construction. Finlay, J., and Romer, L.J., had taken the view that there was a personal liability on the appellant to repay the sums in question. The latter had said that, in his opinion, the relevant provision in the will did not enable the beneficiaries to receive one penny more of income from the estate than they would have received in its absence. If that were the true view, it might be (the noble lord said no more than that) that the law would imply a personal liability to repay. But, on the construction of the will which he (the noble lord) favoured, there was no basis on which to establish personal liability either expressly under the will or by implication under the general law. The payments in question were to be "duly charged against income." In addition, the provision for recoupment only required it "so far as practicable" and "as and when my trustees shall think proper." Those words appeared to him (the noble lord) to exclude all idea of personal liability. The appellant's principal argument before their Lordships' House, however, had been that if (without any personal liability) there existed a liability, so to speak, *in rem*, if, that was, the payments had been made on the footing that the future income of the recipient might be taken to recoup capital, then the payments could not form income assessable to tax in the hands of the appellant. No authority had been cited

in support of that principle, and he knew of no legal principle to justify it. It was well settled that a payment out of corpus might properly be assessable income in the hands of the recipient. A familiar instance was an annuity charged on the income and the corpus of an invested fund. All moneys raised out of corpus to provide the amount of the annuity would be assessable income. The present case offered a close analogy, and the appeal must be dismissed.

COUNSEL: *C. J. Radcliffe*, K.C., and *John Sparrow*, for the appellant; *The Attorney-General* (Sir Thomas Inskip, K.C.), *J. H. Stamp* and *R. P. Hills*, for the respondent.

SOLICITORS: *Ellis, Peirs & Co.; Solicitor of Inland Revenue.*

[Reported by R. C. CALBURN, Esq., Barrister-at-Law.]

Court of Appeal.

Dott *v.* Brown.

Lord Roche, Scott, L.J. and Eve, J.
5th and 6th March, 1936.

DEBT—RECOVERY—AGREEMENT BY DEBTOR TO LIQUIDATE DEBT BY ANNUAL PAYMENTS DURING CREDITOR'S LIFE—INCOME TAX—WHETHER DEBTOR CAN DEDUCT—INCOME TAX ACT, 1918 (8 & 9 Geo. 5, c. 40), GENERAL RULES (ALL SCHEDULES), rr. 19, 21.

Appeal from a decision of Lawrence, J. (79 SOL. J. 610).

The plaintiff, having recovered judgment in the High Court against the defendant for over £9,000, instituted bankruptcy proceedings against him, in the course of which the parties came to terms and it was agreed (*inter alia*) that the debtor would make the creditor two payments of £1,000 and then pay him £250 a year so long as he (the creditor) should live, the covenant to bind the debtor's estate after his death. The first payment of £250 having fallen due the debtor paid only £193 15s., claiming a right to retain the balance as a deduction for income tax. The Special Commissioners of Income Tax in a letter to him had expressed the opinion that if such a deduction of tax was appropriate the authority would be r. 19 of the General Rules, Income Tax Act, 1918, and that no question arose of the application of r. 21. The plaintiff having commenced proceedings to recover the balance under R.S.C., Ord. XIV, an affidavit in answer was put in and unconditional leave to defend was given. Lawrence, J., gave judgment for the defendant.

SCOTT, L.J., allowing the plaintiff's appeal, said that he doubted whether it was right to take out a summons under Ord. XIV when there was no possibility of obtaining judgment, purely for tactical purposes. It had been argued for the appellant (1) that assuming these payments were in the nature of income within the Income Tax Acts, there was no evidence that this sum had been paid wholly out of profits or gains brought into tax within r. 19, and (2) that the respondent in his affidavit in opposition to judgment under Ord. XIV, had based his claim to deduct solely on that rule. Though the court did not accept the submission that the Crown could not, if it were in a position otherwise to do so, have subsequently said that r. 21 was applicable in spite of the letter of the Special Commissioners, the respondent was bound by his election to proceed under r. 19. The essential of r. 19 as distinct from r. 21 was that the payment must be wholly out of profits or gains brought into charge. There was no evidence that this payment was such. The payments under this agreement were capital payments. In considering the decisions dealing with the question whether a particular payment is an instalment on a capital sum or in the nature of an annuity, the salient facts of a particular case were not an exhaustive or determining guide in other cases. The details of each case must be considered and the substance of the transaction determined, bearing in mind that words are not conclusive and may be misleading. His lordship considered *Foley* v. *Fletcher*, 3 H. & N. 769, at p. 779; *Secretary of State in Council of India* v. *Scoble* [1903] 1 K.B. 494, at p. 501; [1903] A.C. 299, at p. 303; *Chadwick* v. *Pearl Life Insurance Co.* [1905] 2 K.B. 507; *Jones* v. *Commissioners of Inland Revenue*, 7 T.C. 310; and *Commissioners of Inland Revenue* v. *Ramsey*, 14 Ann. Tax. Cas. 533. In this case there was an antecedent debt to be liquidated in a certain manner, and the presumption was that the consideration for the liquidation would be a capital payment of the same kind as the debt itself, unless the contract made it clear that an annuity was being bought by the release of the debt. The only doubt lay in the fact that the payments were to be terminated by the creditor's death, but this did not necessarily mean that an income annuity was substituted for a capital instalment. Moreover, even if there were ambiguity, it would be for the party contending that the payments of £250 were of a different nature from the payments of £1,000 to show that that was so. The £250 remained capital.

LORD ROCHE and EVE, J., agreed in allowing the appeal.

COUNSEL: *Hon. Quintin Hogg; L. Stein.*

SOLICITORS: *Ballantyne, Clifford & Co.; Bartlett & Gluckstein.*

[Reported by FRANCIS H. COWPER, Esq., Barrister-at-Law.]

Nash *v.* Stevenson Transport Limited.

Lord Roche, Scott, L.J., and Eve, J. 6th March, 1936.

ROAD TRAFFIC—GOODS VEHICLE—"A" LICENCE—AGREEMENT BY LICENSEE—ALLOWING ANOTHER PERSON TO RUN VEHICLES UNDER THE LICENCE—CONTRACT VOID AND ILLEGAL—ROAD AND RAIL TRAFFIC ACT, 1933 (23 & 24 Geo. 5, c. 53).

Appeal from a decision of Humphreys, J. (79 SOL. J. 542).

A haulage contractor carrying on business in London under the style of "Nash Transport Co." had, during the year beginning the 1st April, 1932, under a hire-purchase agreement, certain lorries, and applied under s. 7 (2) of the Road and Rail Traffic Act, 1933, to the Metropolitan Traffic Area Licensing Authority for an "A" licence to which he was entitled. Early in 1934 he disposed of the lorries. On the 18th May, 1934, he entered into a contract with the defendants, whereby, in consideration of the defendants paying him £375, he was to allow them to run lorries of their own under the licence granted to him in respect of the lorries formerly in his possession. Under cl. 7 he was to allow the defendants to use the name of the Nash Transport Co. so far as was necessary. Under cl. 8 if the company could not in law and rightfully obtain the normal and proper use of the licences the sum of £375 was to be repaid to the company. In November, 1934, the licensing authority notified the contractor, the plaintiff, that his application had been granted, and fourteen days later, under the contract, the £375 became payable to him. The defendants, having declined to carry out the contract, he brought an action to recover the money. Humphreys, J., held that the contract was not enforceable in law.

LORD ROCHE, dismissing the plaintiff's appeal, said that the defence was that the agreement was impossible of execution legally and the consideration irrecoverable. His lordship referred to s. 21 of the Act, and said that it had been argued that in so far as the agreement sought to achieve by other means what was there forbidden, the agreement was unlawful. So put, the learned judge rightly rejected the argument, which was not supported by *In re Mahmoud and Ispahani* [1921] 2 K.B. 716. But he had held that the agreement was incapable of being legally carried out. The appellant argued that it could be legally carried out and must be deemed to be so carried out (*Waugh* v. *Morris*, L.R. 8 Q.B. 202, at p. 208). The plaintiff was not to be beneficial owner of the vehicles, and the running, supervision of drivers, keeping of records and all the matters which were the obligation of the licensee were to be done by the defendants and not even by the plaintiff for the defendants. The appeal must be dismissed.

SCOTT, L.J., and EVE, J., agreed.

COUNSEL: *Beney; Sellers*, K.C., and *I. Macauley.*

SOLICITORS: *E. C. Randall; Field, Roscoe & Co.*, agents for *Luya & Williams*, of Liverpool.

[Reported by FRANCIS H. COWPER, Esq., Barrister-at-Law.]

Faraday *v.* **Auctioneers' and Estate Agents' Institute of the United Kingdom.**

Lord Wright, M.R., Romer and Greene, L.JJ.
5th February and 12th March, 1936.

Auctioneers and Valuers—Estate Agents' Institute—Violation of Rules—Declaration—Prohibition against Joining any Commercial Undertaking—Meaning.

Appeal from a decision of Eve, J. (79 Sol. J. 502).

Harrods Limited ran an estate agency business which did not form part of their stores, but was in premises opposite, although it was carried on as an adjunct to their commercial business. In 1934, before the quinquennial valuation, they informed their clients that they had retained the services of the plaintiff, who was an expert in rating matters. The circular imparting this information was approved by him. The arrangement was that in cases where they required him, Harrods Limited would share the fees, keeping 40 per cent. and paying him 60 per cent., his expenses being halved with the company. The plaintiff was a fellow of the defendant institute, which, by art. 38 (1) of its articles of association, laid down: "No member shall establish or join, either as principal or assistant, any commercial firm or undertaking for the purpose of carrying on or assisting to carry on professional business as an adjunct to or in connection with the commercial business of such firm." On the 6th December, 1934, the institute passed a resolution (*a*) suspending the plaintiff until the expiration of his contract with Harrods Limited unless he determined his association with them; and (*b*) declaring that unless he gave an undertaking not to renew his association at the end of his contract, he must be expelled. Eve, J., dismissed an action in which the plaintiff claimed a declaration that he had not violated art. 38 (1).

Greene, L.J., delivering the judgment of the court, dismissing the plaintiff's appeal, said that the rule was couched in popular and non-technical language. The prohibition against joining any commercial firm or undertaking covered limited companies and individuals. In the case of a limited company, anyone who joined it to assist to carry on professional business would join as "assistant." The words "principal" and "assistant" were meant to be exhaustive of the capacities in which a firm or undertaking could be joined for the purpose of assisting, though the word "principal" would only apply to the case of joining a firm or individual. The context here made it impossible to construe these words in some restricted way by reference to their use in other articles dealing with different subject matters. It was argued for the appellant that the words were not that no member should "assist any commercial firm or undertaking," and that "join" meant something different. This was so, but the prohibited relationship need not be that of master and servant, the person joining being subject to directions as to how he should do his work. A professional man might join an undertaking, remaining free to exercise his skill without conforming to any directions as to how he was to do the work. The words were not limited to joining the staff of a company as a whole-time employment, and it was irrelevant that the appellant might do outside work of his own. Nor did they necessarily refer to a permanent relationship; the rule might be broken by joining to conduct one particular piece of business or the work of one particular client. On the other hand, if the client gave joint instructions both to the member and to the company, both the member and the company would preserve their individualities in relation to the client, each being liable under a direct contractual relationship. Here, this was not so, the clients being the clients of Harrods Limited alone, and there being no contractual relationship between them and the appellant. The work was done in the name of Harrods Limited, who would have been liable to the client if through some act or default on the appellant's part the contract had been broken. It was just as if the appellant had moved into the estate office of Harrods Limited and done the work from there. The fact that he remained in his own was irrelevant. So also was the fact that Harrods Limited were not bound to employ the appellant in any case, and he was not bound to accept any case in which he was asked to act.

Counsel: *Sir William Jowitt*, K.C., *Cohen*, K.C., and *F. Grant*; *Simonds*, K.C., and *R. W. Turnbull*; *C. B. Pearson*.

Solicitors: *Richardson, Sadler & Co.*; *Norton, Rose, Greenwell & Co*; *R. S. Fraser & Co.*

[Reported by Francis H. Cowper, Esq., Barrister-at-Law.]

High Court—King's Bench Division.

Powell *v.* **Mayor, etc., of Sheffield.**

du Parcq, J. 24th January, 1936.

Local Government—Officers' Superannuation—Post Designated as Established Post—Agreement by Occupier of Post that it should not be Deemed Established—Whether Valid—Contracting Out—Compensation of Officer for Loss by Abolition of Office—Whether Superannuation Benefit Payable in Respect of Period to which Compensation Applies—Ministry of Health Provisional Order (Sheffield Extension) Act, 1921 (11 & 12 Geo. 5., c. lxix), Art. 52—Local Government and Other Officers' Superannuation Act, 1922 (12 & 13 Geo. 5, c. 39), ss. 22 and 30.

Appeal, by special case stated, from the decision of an arbitrator.

The appellant, Powell, held the post of divisional surveyor under the Sheffield Corporation. That post was designated by the corporation as an established post for the purposes of the Local Government and other Officers' Superannuation Act, 1922, which Act the corporation adopted in July, 1930. In October, 1932, the parties entered into an agreement whereby the appellant in consideration of the company's continuing to employ him, agreed that the post occupied by him was not, and should not be deemed to be designated an established post, and withdrew all claims to be entitled to receive superannuation benefit on ceasing to hold his office under the corporation. In 1921, the Ministry of Health Provisional Order (Sheffield Extension) Act, 1921, was passed, whereby the City of Sheffield and the Urban District of Handsworth were amalgamated. The appellant was in the service of the Handsworth Urban District Council as engineer and surveyor from 1901 until 9th November, 1921, when the amalgamation with Sheffield came into operation. On 18th June, 1920, the appellant and the Sheffield Corporation entered into an agreement whereby adequate compensation to the appellant, in the event of the inclusion of the Handsworth urban district within the boundary of Sheffield, was fixed at £300 a year, to become payable from the day on which the amalgamation took effect, the annuity to be suspended while the appellant held any office under the Sheffield Corporation. The appellant having remained in the service of the corporation until 15th January, 1935, when he attained the age of sixty-five, he claimed to be entitled both to compensation under the agreement of 18th June, and to superannuation allowance in respect of the whole of his period of service with local authorities, including the Handsworth Urban District Council, from 1898 to 1935. The arbitrator was of opinion that the agreement of 3rd October was invalid. He was also of opinion that Art. 52 of the Provisional Order of 1921 did not operate to enable the corporation to exclude the appellant's service with the Handsworth Urban District for the purpose of calculating the superannuation allowance to which he was entitled. The corporation appealed.

du Parcq, J., said that it had been settled by *Salford Guardians* v. *Dewhurst*, *supra*, that a man could not contract

out of his right to superannuation allowance. At the date of the agreement of October, 1932, the appellant either was or was not occupying a post designated as an established post. In fact, it had been found that he was. No doubt about the matter could affect the fact that he was occupying such a post. He (his lordship) could not draw the distinction suggested to him between contracting out and contracting that one is not to be deemed to be in. On that point the arbitrator had been right.

On the second point, counsel for the appellant had said that Art. 52 of the Provisional Order, confirmed as it was by the Act of 1921, could not take away a right which had only vested in the appellant in 1922. In his (his lordship's) opinion the arbitrator had been wrong on this point. The agreement of 1920 had been a proper one to make. The corporation had by it compounded in advance for the appellant's claims to compensation. That was not comparable with an attempt to contract out of superannuation benefit. Having entered into that agreement, the appellant was, when the Provisional Order was confirmed in 1921, in the position of having received money in the sense that he had an enforceable promise to pay money. His position to-day was presumably that he was receiving compensation of £300 a year for life. In his (his lordship's) opinion the legislature had, by s. 30 of the Act of 1922, made it plain that, although the right to a superannuation allowance under that Act did not exist in 1921, a provision like that contained in Art. 52 of the Act of 1921 was to have the effect of preventing a person from receiving superannuation allowance in respect of the period with regard to which he had already received compensation. The period of the appellant's employment by the Handsworth Urban District Council must accordingly be excluded for the purpose of calculating his superannuation allowance.

COUNSEL: *R. P. Croom-Johnson*, K.C., and *P. C. Davie*, for the appellant; *R. M. Montgomery*, K.C., and *W. A. Macfarlane*, for the respondents.

SOLICITORS: *Corbin, Greener & Co.*, agents for *Arthur Neal, Scorah & Co.*, Sheffield; *Sharpe, Pritchard & Co.*, agents for *E. B. Gibson*, Town Clerk, Sheffield.

[Reported by R. C. CALBURN, Esq., Barrister-at-Law.]

Green *v.* Berliner and Others.

du Parcq, J. 5th and 6th February, 1936.

SUNDAY OBSERVANCE—PERFORMANCE OF BOXING ON SUNDAY—KEEPER OF PREMISES—HANDBILLS ADVERTISING PERFORMANCE—PRINTER'S NAME APPEARING THEREON—EVIDENCE THAT HE IN FACT PRINTED THEM—ANNOUNCEMENT OF PERFORMANCE IN NEWSPAPER AS NEWS ITEM—WHETHER AN ADVERTISEMENT—SUNDAY OBSERVANCE ACT, 1780 (21 Geo. 3, c. 49), s. 1.

Action by one, Green, acting as a common informer, for £400 as penalties under the Sunday Observance Act, 1780. The penalties claimed were, £200 against one, Berliner, as general manager and matchmaker at certain premises, £100 against one, Haygate, alleged to be acting as master of ceremonies at the premises, and £50 each against certain printers and publishers, namely, Salisbury Press, Ltd., in respect of advertising posters and handbills, and Fleetway Press (1930), Ltd., in respect of an advertisement in an issue of a newspaper called *Boxing*, dated Wednesday, 1st May, 1935. It was alleged by the plaintiff that on Sunday, the 5th May, 1935, there was held at The Ring, Blackfriars, an entertainment to which the public were admitted against payment, contrary to s. 1 of the Act, and that the advertisements of that illegal entertainment in the handbills and *Boxing* were in contravention of s. 3 of the Act. The name of Salisbury Press, Ltd., appeared on the handbills, but it was contended on their behalf that there was no evidence that they had in fact printed them. No payment was received by Fleetway Press (1930), Ltd., for their announcement of the entertainment, and it was said on their behalf that it was inserted as an item of news.

DU PARCQ, J., said that he drew the inference that on the 5th May no one obtained admission to the entertainment without paying. Upon all the evidence, he came to the conclusion that Berliner was the "keeper" within the meaning of the Act, and the plaintiff was entitled to recover the prescribed penalty from him. The functions carried out by Haygate as master of ceremonies certainly brought him within the Act, if in fact Haygate carried them out on the 5th May. He (his lordship) was of opinion on the evidence that he did, and that he was accordingly liable to pay the plaintiff £100. The only evidence against Salisbury Press, Ltd., was the imprint on the handbill. The matter sounded a very simple one, but had given him some cause for thought. It was very important that it should never be said to a man: "There is not a case against you, but there is a suspicion, and if you don't go into the box to deny it, that suspicion will harden into a certainty." That cut at the very root of the principle that the case must be probed. It might seem a strong thing to say that the fact that the name was there was no evidence that the people bearing the name printed it. His lordship referred to the judgment of Atkinson, J., in *Tarling* v. *Rome* (1936), 80 SOL. J. 166. It had been urged, he continued, that that was a decision on particular facts, but he had come to the conclusion that it was a decision on the law of evidence. He was not bound by it, and had carefully reconsidered it. The more he considered it, the more he thought that Atkinson, J., was right. Everyone must realise that Salisbury Press, Ltd., were probably the printers, and the statement on the bill was conclusive against them if they made it. But it was not proved that they made it, as might quite easily have been proved if that was the fact. Salisbury Press, Ltd., were entitled to judgment. With regard to Fleetway Press (1930), Ltd., the question was whether the announcement was an "advertisement." To "advertise," he thought, was to call attention to something by a public announcement, and any announcement which called the attention of the public to some forthcoming event was an "advertisement." He had no doubt that the announcement was an advertisement of the entertainment concerned. He did not think it was necessary to show payment. If intention was material, he had no doubt that the intention of the editor was to advertise that entertainment and to let his readers know that they could go and watch that illegal entertainment on Sunday, 5th May. The editor might not have realised that it was illegal, but he must be taken to know the law. The plaintiff must have judgment for £50 against Fleetway Press (1930), Ltd.

COUNSEL: (*The plaintiff appeared in person.*) *Martin O'Connor* and *D. W. O'Connor*, for the defendants, Berliner and Haygate; *Cyril Salmon*, for Salisbury Press, Ltd., and Fleetway Press (1930), Ltd.

SOLICITORS: *Edmond O'Connor & Co.; Isadore Goldman and Son.*

[Reported by R. C. CALBURN, Esq., Barrister-at-Law.]

R. *v.* Associated Newspapers Ltd.: *Ex parte* Beyers. Same *v.* Co-operative Press Ltd.: *Ex parte* the Same. Same *v.* Daily Sketch and Sunday Graphic: *Ex parte* the Same.

Lord Hewart, C.J., du Parcq, and Goddard, JJ. 24th March, 1936.

CONTEMPT OF COURT—NEWSPAPER—ARTICLE REFERRING TO PENDING ACTION—INACCURACY IN VITAL PARTICULAR—DISCRETION OF COURT.

Rules *nisi*, granted at the instance of Miss A. H. Beyers, directed to the respective editors, printers and publishers of the *Evening News*, *Reynolds's Illustrated News* and the *Sunday Graphic*, and calling on them to show cause why writs of

attachment should not issue in respect of articles which had appeared in those newspapers.

In March, 1936, Miss Beyers was the plaintiff in a breach of promise action. Her case in that action was that the defendant had promised to marry her in 1922; that, in May, 1923, she went through a form of marriage with him; that she lived with him until 1935 in the belief that she was his lawful wife; that she had then discovered him to be a married man and to have been fraudulently concealing that fact from her; and that she had soon afterwards issued the writ in the action. She now contended that, as the defendant in that action had pleaded the Statute of Limitations, the date of the plaintiff's discovery that he was a married man had been of vital importance to her case. In articles published in the newspapers in February, 1936, it had been inaccurately stated that that discovery had been made in 1932, with the result that the articles had been calculated to prejudice the fair trial of the action. It was contended, in showing cause against the rules, that, on the authority of *Reg.* v. *Payne* [1896] 1 Q.B. 577, the nature of the articles was not such as to endanger the fair trial of the action. In support of the rules, it was contended that it was a contempt of court, in a case of this kind, to publish *in extenso* the issues disclosed in the pleadings, even if they were accurately set out. Such a course might have the effect of deterring the parties from compromising or proceeding with their action. Counsel referred to *In re The William Thomas Shipping Co. Ltd.* [1930] 2 Ch. 368.

Lord Hewart, C.J., in the course of his judgment, said that the principles on which the court acted in a case of the present kind were clearly settled in *Reg.* v. *Payne, supra.* Lord Russell of Killowen there said, at p. 580: "I wish to express the view which I entertain, that applications of this nature have in many cases gone too far. No doubt the power which the court possesses in such cases is a salutary power, and it ought to be exercised in cases where there is real contempt, but only when there are serious grounds for its exercise. . . . The applicant must show that something has been published which either is clearly intended, or at least is calculated, to prejudice a trial which is pending." The allegation here was that the matter published was calculated to prejudice the fair trial of a then pending action. No doubt it was objectionable, and might be perilous, for a newspaper to publish either a pleading or a summary of the pleadings in an action which was pending. It was quite easy to conceive a case where the publication of a statement of claim might come within the well-known passage which he had just quoted, but every case must be judged on its own particular facts. In his opinion, the present case illustrated what was in the mind of Lord Russell of Killowen in *Reg.* v. *Payne, supra,* when he said that "applications of this nature have in many cases gone too far." It seemed impossible to accept the contention that the matter published in the present case was calculated to prejudice the trial of the action which was pending. That it was objectionable to publish the matter complained of, he (the Lord Chief Justice) did not doubt, and the court had heard an unqualified apology. He equally had no doubt that the case did not come within the well-settled principles on which the court acted. The rules must therefore be discharged with costs.

du Parq, J., agreed.

Goddard, J., agreed, and said that he hoped that he would live to see the day when the jurisdiction invoked in the present case could be invoked only by or on the direction of the Attorney-General.

Counsel: *Sir William Jowitt,* K.C., and *Valentine Holmes,* showed cause; *F. J. Tucker,* K.C., and *C. Gallop,* in support.

Solicitors: *Lewis & Lewis; Theodore Goddard & Co.; Ponsford & Devenish; Strong & Co.*

[Reported by R. C. Calburn, Esq., Barrister-at-Law.]

Mr. Frederick Ashworth, solicitor, of Birkenhead, left £17,679, with net personalty £16,841, "so far as can at present be ascertained."

Probate, Divorce and Admiralty Division.

In the Estate of M. A. Long, deceased.

Sir Boyd Merriman, P. 2nd March, 1936.

Probate—Position of Signature to Will—Court satisfied Whole Document Written out before Signing—Proof not Necessary of Particular Order in which the Several Parts were Written—The Wills Act, 1837 (1 Vict., c. 26), s. 9—The Wills Act Amendment Act, 1852 (15 & 16 Vict., c. 24), s. 1.

This was a motion in the estate of Mabel Amy Long, deceased, who died on 24th October, 1935, without known relation, leaving estate of approximately £1,500, in which the court had to interpret, having regard to the position of the signature of the testatrix, s. 9 of the Wills Act, 1837, as extended by s. 1 of the Wills Act Amendment Act, 1852, the facts of the case not being covered by any previous decision. The court was moved on behalf of Mr. J. E. Johnson for a grant of probate to him as executor of a will dated 2nd September, 1935; or, in the alternative, for a grant to him of probate of a page in that will containing appointment of an executor and the signatures of the deceased and the attesting witnesses, together with earlier testamentary papers dated 27th February and 25th March, 1935. The facts and arguments appear sufficiently from the judgment.

Sir Boyd Merriman, P., in the course of delivering a considered judgment, said that all three documents were holographs. They showed plainly that the deceased had a very clear idea of what she wished to do and why she wished to do it. The point was whether the whole of either the earliest or the latest document or only part could be admitted to probate. The only practical differences between the wills of February and September, 1935, were of trivial character, and each of those documents were written on one sheet of paper, and in each the whole of one side of the paper was occupied with the specific legacies, beginning in each case with the words "I give and bequeath to my dear friends the following sums," etc., and ending in each case with the following words: "The residue to be divided between Lord Mayor Treloar's Cripple Hospital, Alton, Hampshire, and Dr. Barnardo's Home." In each the other side of the paper contained the words "This is the last Will and Testament," etc., made on the respective dates, followed by the appointment of the executor. After the appointment a line was drawn across the paper indicating finality, and that was followed by the attestation clause, with the signature of the testatrix and the signatures and addresses of the two witnesses, who in fact witnessed all three documents. (His lordship here read the relevant passage in s. 1 of the 1852 statute and reviewed the decisions upon it.) There was some evidence, of which not the least important was the drawing of the final line above the signatures and the absence of any such line after the bequests, from which it might be inferred that the page containing the bequests, in each case, was written before the page containing the execution. But it was impossible to be certain about it. That, in his view, was not essential. Provided that the court was satisfied that the whole document was written before the signatures were made, and that the dispositive part of the document might be fairly read as preceding and leading up to the part containing the signatures, and in no sense as a schedule thereto, he thought that it would be transgressing what Sir James Hannen had called "the spirit of the Act" to insist, as a criterion of valid execution, on proof that the several parts of the document were actually written in any particular order. The proper way to read both the earliest and the latest will was to begin with the words "I give and bequeath" and to end with the signatures. As the will of September, 1935, was complete in itself that will would be admitted to probate, all parties to have their costs out of the estate.

COUNSEL: *Clifford Mortimer*, for the applicant; *C. R. R. Romer*, for certain charities; *F. L. C. Hodson*, for the Treasury Solicitor.

SOLICITORS: *Rawlinson & Son; Hyde, Mahon & Pascall; Treasury Solicitor.*

[Reported by J. F. COMPTON-MILLER. Esq., Barrister-at-Law.]

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Parliamentary News.

Progress of Bills.

House of Lords.

Bedwellty Urban District Council Bill.
Read Third Time. [24th March.

Bognor Regis Urban District Council Bill.
Read Third Time. [24th March.

Brighton Marine Palace and Pier Bill.
Read Second Time. [25th March.

British Shipping (Continuance of Subsidy) Bill.
Read First Time. [24th March.

Coinage Offences Bill.
Read Third Time. [19th March.

Consolidated Fund (No. 1) Bill.
Royal Assent. [19th March.

Cornwall Electric Power Bill.
Read Third Time. [24th March.

Electricity Supply (Meters) Bill.
Read Second Time. [24th March.

Housing Bill.
Read First Time. [19th March.

Kingston-upon-Hull Corporation Bill.
Read Third Time. [24th March.

Milk (Extension of Temporary Provisions) Bill.
Royal Assent. [19th March.

Ministry of Health Provisional Order Confirmation (Bedford Joint Hospital District) Bill.
Royal Assent. [19th March.

Ministry of Health Provisional Order Confirmation (Bury and District Joint Hospital District) Bill.
Royal Assent. [19th March.

Ministry of Health Provisional Order Confirmation (Chester and Derby) Bill.
Royal Assent. [19th March.

Ministry of Health Provisional Order Confirmation (Mid-Sussex Joint Hospital District) Bill.
Royal Assent. [19th March.

Ministry of Health Provisional Order Confirmation (North East Lindsey Joint Hospital District) Bill.
Royal Assent. [19th March.

Ministry of Health Provisional Order Confirmation (St. Albans Joint Hospital District) Bill.
Royal Assent. [19th March.

Ministry of Health Provisional Order Confirmation (South Staffordshire Joint Smallpox Hospital District) Bill.
Royal Assent. [19th March.

Nottinghamshire and Derbyshire Traction Bill.
Read Third Time. [24th March.

Old Age Pensions Bill.
Read Second Time. [25th March.

Perth Corporation Order Confirmation Bill.
Royal Assent. [19th March.

Public Health Bill.
Read First Time. [24th March.

Solicitors Bill.
Read Third Time. [24th March.

Swansea and District Transport Bill.
Read Third Time. [24th March.

Unemployment Insurance (Agriculture) Bill.
Read First Time. [24th March.

Unemployment (Northern Ireland Agreement) Bill.
Royal Assent. [19th March.

Warkworth Harbour Bill.
Read First Time. [19th March.

House of Commons.

Army and Air Force (Annual) Bill.
Read Second Time. [24th March.

Bedwellty Urban District Council Bill.
Read First Time. [24th March.

Bognor Regis Urban District Council Bill.
Read First Time. [24th March.

British Shipping (Continuance of Subsidy) Bill.
Read Third Time. [19th March.

Consolidated Fund (No. 2) Bill.
Read Second Time. [24th March.
Cornwall Electric Power Bill.
Read First Time. [24th March.
Dewsbury and Heckmondwike Waterworks Board Bill.
Reported. [19th March.
Great Orme Tramways Bill.
Reported, without Amendment. [24th March.
Imperial Continental Gas Association Bill.
Reported, without Amendment. [24th March.
Importation of Plumage (Prohibition) Act (1921) Amendment Bill.
Read First Time. [25th March.
Kingston-upon-Hull Corporation Bill.
Read First Time. [24th March.
London Midland and Scottish Railway Bill.
Reported, with Amendments. [24th March.
Mersey Docks and Harbour Board Bill.
Reported, with Amendments. [24th March.
Ministry of Health Provisional Order (Bristol) Bill.
Read First Time. [24th March.
Ministry of Health Provisional Order (Falmouth) Bill.
Read First Time. [24th March.
Ministry of Health Provisional Order (Luton) Bill.
Read Third Time. [25th March.
Ministry of Health Provisional Order (Matlock) Bill.
Reported, with Amendments. [24th March.
Nottinghamshire and Derbyshire Traction Bill.
Read First Time. [24th March.
Public Meeting Act (1908) Amendment Bill.
Read First Time. [19th March.
Shops Bill.
Read First Time. [19th March.
South East Cornwall Water Board Bill.
Reported, with Amendments. [25th March.
Sugar Industry (Re-organisation) Bill.
Reported, with Amendments. [24th March.
Swansea and District Transport Bill.
Read First Time. [24th March.
Unemployment Insurance (Agriculture) Bill
Read Third Time. [23rd March.

Questions to Ministers.

LAW OFFICERS (EMOLUMENTS).

Mr. V. ADAMS asked the Financial Secretary to the Treasury whether he will state in two lump sums the total emoluments in fees and salaries, respectively, received from their offices by successive Attorneys-General and Solicitors-General for England from the beginning of 1926 to the end of 1935?

THE FINANCIAL SECRETARY TO THE TREASURY (Mr. W. S. Morrison): Figures for the period of ten calendar years ended 31st December, 1935, are not immediately available. The total emoluments in fees and salaries during the ten financial years 1st April, 1925, to 31st March, 1935, were as follows: Attorneys-General, £188,067; Solicitors-General, £114,212. [25th March.

Societies.

United Law Clerks' Society.

This Society held its 104th Anniversary Festival Dinner at the Connaught Rooms on the 16th March, with the LORD CHIEF JUSTICE (Lord Hewart) in the chair.

After the loyal toasts had been honoured, LORD HEWART proposed the health of "the Society." He said he was relieved to find that, in spite of the appalling accumulation of arrears in the King's Bench Division, lawyers and their clerks could sit down and take a little nourishment. This mature, seasoned, honoured institution had been born in an attractive coffee-house 105 years before and had never failed to grapple with the problems of ill-health, misfortune and old age set by its colleagues. It was founded upon unselfishness, the seed of everything good. Remembering that ancient and much-neglected virtue, the Society had made itself worthy of great things, and he tendered his most respectful and warmest congratulations and the wishes of all its friends, past and present, for long life and prosperity. All its works were of thrift and benevolence, and its name was one of its great attractions. Law was the organic body of combined civilised life. Clerks were the backbone of the law. They were a society, which was an alliance, and united, which was a miracle. None of the leagues, covenants and collective security of the world could bear comparison with this united profession of the law which, with all its associated activities, existed for the service of the public and the welfare of the State. Possibly the best joke of recent times was the suggestion that a commission should meet to discuss improvements in the King's Bench Division when, after fourteen years' hard labour by himself and his colleagues, the number of cases in the lists awaiting trial had been reduced from 2,000 to 200. Critics had it both ways: if the lists were large, that proved delay; if they were small, that proved the unpopularity of the law. The diminution was due partly to the exemplary diligence of his colleagues, but also to an increase of public prosperity and an excessive and undesirable restriction of trial by jury, while a fourth factor was a deplorable and persistent crabbing, disparaging and defaming of the Law Courts by certain persons for indirect and ulterior purposes.

In reply to the toast, Mr. H. E. STAPLEY, the Honorary Treasurer, said that since 1923 the membership of the Society had grown from 1,250 to 1,750. Five hundred more clerks had seen the force of the suggestion which had then been made by Lord Hewart, and the desirability of not only enjoying the advantages which the Society offered to its members but also of contributing to its friendliness. The Society's liabilities, both present and future, had been correspondingly increased. It was, however, an old society, firmly established with a considerable invested insurance fund which, although it did not run into millions, was still enough, assisted by the loyal help of members of the other branches of the profession, to enable the Society to meet its liabilities with equanimity. Superannuation of disabled members for 1923 had cost the Society £2,847, and for 1935 the figure had risen to £7,228. These benefits could not be provided entirely out of members' contributions, and became partly a charge on the invested funds of the Society and its benefactors. The Society also maintained a benevolent fund for the assistance of law clerks and their widows, whether members or not.

Mr. H. U. WILLINK, K.C., then proposed the health of the "Legal Profession." He could not estimate, he said, how much he had learnt from the clerks' and the solicitors' branch of the profession, both in the days when he had been a pupil in a great firm of solicitors in the North, and ever since. Their knowledge, their wisdom, their skill and their tact had during the course of his somewhat short career seemed unsurpassable. Barristers enormously admired the way in which their clerks' work was done in circumstances often demanding the greatest possible delicacy, both between themselves and in relation to the other branch of the profession. In moments of difficulty and embarrassment the consideration and tact with which barristers' clerks managed the Bar were beyond all words. Barristers were not unmindful also of the consideration sometimes given to them by the clerks of His Majesty's judges. Even barristers might on some occasions be deemed to be of use to the State, for the Attorney-General, Sir Thomas Inskip, had just been appointed to a new post of extreme responsibility in connection with the national defences. His colleagues, who felt for him the greatest possible respect, admiration and affection, would rejoice that a member of the legal profession had been chosen to hold this important office, which had been held before by another of its most distinguished members, Lord Haldane.

Sir HARRY PRITCHARD, the President of The Law Society, in reply, said that the decriers of the profession never hesitated to come to it when they were in a difficulty. They knew that lawyers did their work with efficiency and were entirely independent. There had been a time when a person accused of crime was not allowed the benefit of being represented by counsel, but those days were now long past. When he had become a law clerk something like half a century ago, nothing had struck him more than the kindness and skill with which clerks served their principals. The members of his own staff were an excellent set of men and women, and he had no doubt that other solicitors were equally fortunate. The Law Society had initiated a scheme of pensions a few years ago, and he could recommend it strongly to all solicitors who might be present.

Mr. C. E. MACKLIN announced that the appeal had realised £750, and proposed the health of "the Guests."

Judge GERALD DODSON remarked that the wheels of justice had lately been turning so fast that the whole profession, from the Lord Chief Justice to the janitor, was threatened with extermination. Every barrister, however, would cherish the happiest memories of his clerk or clerks. The solicitor's clerk's day started with the necessity of wheedling the partners into a good humour and explaining the correspondence to them. He then went to the "bear garden" in company with a number of articled clerks, whose sole desire was to get away to the pictures; and then into court, where he murmured inaudible asides to intolerant and often intolerable counsel. And what letters clerks could write! On one occasion a partner had hurried away on the Friday night for his week-end and had not time to write the last letter, so had told the

office-boy to write to Mr. So-and-So about the costs he owed them. On the Monday morning, to his great surprise, he found a cheque for £40. He demanded the letter-book from the office-boy and turned up the letter, which had run: "Dear Sir, Unless you pay my firm the £40 you owe them for costs by Monday morning, we shall take such proceedings as will astonish you."

Sir PATRICK HASTINGS proposed the health of "The Chairman," and LORD HEWART briefly replied.

Among those present were: Lord Maugham, Lord Wright, Master of the Rolls and Lady Wright, Mr. Justice Bucknill, Mr. Justice Goddard, Mr. Justice Horridge, Mr. Justice Porter, Judge Gerald Dodson, Judge Earengey, K.C., Judge Drysdale Woodcock, Sir Patrick Hastings, K.C., Sir Reginald Poole, Sir Harry Pritchard (President of The Law Society), Mr. Gilbert Beyfus, K.C., and Mrs. Beyfus, Mr. Kenneth Carpmael, K.C., Mr. Thomas Carthew, K.C., Mr. Harold Christie, K.C., Mr. Hugh Hallett, K.C., Mr. Hector Hughes, K.C., Mr. St. John Hutchinson, K.C., Mr. Neville Laski, K.C., Mr. Raymond Needham, K.C., Mr. F. P. M. Schiller, K.C., Mr. J. G. Trapnell, K.C., Mr. H. J. Wallington, K.C., Mr. H. U. Willink, K.C., Sir Alfred Baker, Mr. M. C. Adams, Mr. J. P. Ashworth, Mr. G. Bankes, Mr. W. L. L. Bell, Mr. M. Berryman, Mr. H. Bevir, Mr. H. Rowsell Blaker, Mr. G. Block, Mr. C. Bonard, Mr. E. Bousfield, Mr. K. Brown, Mr. J. Brunyate, Mr. T. A. C. Burgess, Mr. R. Butler, Mr. R. G. C. Clarke, Mr. H. C. Clifford-Turner, Mr. R. Clifford-Turner, Mr. D. H. Cohen, Mr. C. A. Davis, Mr. C. H. Duveen, Mr. J. E. H. Dykes, Mr. A. F. Englebach, Dr. W. Fairlie, Mr. C. A. Fisher, Mr. H. E. Francis, Mr. V. Gattie, Mr. A. F. Gilchrist, Official Solicitor, R.C.J., Mr. L. Gluckstein, M.P., Mr. T. Goddard, Mr. E. A. Godson, Mr. O. Goulding, Master R. M. Greenwood, Mr. F. M. Guedalla, Mr. R. L. A. Hankey, Master W. F. S. Hawkins, Mr. E. L. Hayes, Mr. E. J. Heckscher, Mr. and Mrs. A. Irby, Mr. K. E. B. Kemp, Mr. R. E. Manningham-Buller, Mr. H. C. Marks, Mr. J. C. Maude, Mr. N. H. Moller, Mr. K. Mossman, Mr. I. E. Near, Mr. A. C. Nesbitt, Mr. R. C. Nesbitt, Mr. and Mrs. R. M. Pembridge, Mr. C. M. Picciotto, Mr. H. B. Piper, Mr. G. Prior, Mr. C. R. D. Richmount, Mr. G. A. Rink, Mr. G. D. Roberts, Mr. G. Russell, Mr. C. Salmon, Mr. H. E. Salt, Mr. G. G. Shiel, Mr. C. Stephenson Squires, Mr. A. Stiebel, Mr. F. Heyworth Talbot, Mr. A. R. Thomas, Mr. R. G. Thorp, Mr. A. D. Thorpe, Mr. W. F. Waite, Mr. and Mrs. E. J. Winter, Mr. G. Woodrow and Mr. C. V. Young.

The Hardwicke Society.

A meeting of the Society was held on Friday, 20th March, at 8.15 p.m., in the Middle Temple Common Room, the President (Mr. T. H. Mayers) in the chair. Mr. Martin Woodroffe moved: "That this House views with growing concern the activities of the Minister of Transport." Mr. James A. Petrie opposed. There also spoke Mr. T. K. Wigan, Mr. A. Douglas, Mr. Llewellyn Thomas, Mr. A. Newman Hall, Mr. Grieves and Mr. Cussen. The hon. mover having replied, the House divided, and the motion was lost by four votes.

The Solicitors' Law Stationery Society, Limited.

The report of The Solicitors' Law Stationery Society, Limited, states that sales for the year 1935 were in excess of those in 1934, and the profit for the year amounted to £60,174, against £60,326 in 1934. The available balance amounts to £71,649, and the directors recommend that a dividend of 14 per cent., less income tax, be paid for the year on account of which an interim dividend of 4 per cent. was paid on 15th October last.

As the dividend exceeds 3 per cent., a bonus is distributable under the articles of association amongst solicitors whose accounts with the Society during the year exceeded £50. A bonus is also payable to the staff under the profit-sharing scheme.

The dividend and bonuses absorb the sum of £56,554, and out of the balance the directors propose to write off £103 appearing as business purchased, to write £2,500 off the freehold premises, and to place £1,000 to the women's pension reserve (same), leaving £11,492 to be carried forward.

The annual meeting will be held at 102-7, Fetter-lane, E.C.4, on Tuesday, 31st March, at 12 noon.

At the annual meeting of the Legal & General Assurance Society Ltd., to be held on the 28th April next, the Directors will recommend payment of a final dividend for the year 1935 at the rate of 5s. per share, free of income tax, and a bonus at the rate of 2s. per share, free of income tax, both payable on the 1st of July, 1936. This is the same as last year.

Rules and Orders.

THE SUPREME COURT (NON-CONTENTIOUS PROBATE) FEES ORDER, 1936. DATED MARCH 10, 1936.

The Lord Chancellor, the Judges of the Supreme Court, and the Treasury, in pursuance of the powers and authorities vested in them respectively, by section 213 of the Supreme Court of Judicature (Consolidation) Act, 1925,* and sections 2 and 3 of the Public Offices Fees, Act, 1879,† do hereby according as the provisions of the above-mentioned enactments respectively authorise and require them, make, advise, consent to and concur in the following Order:—

1. The fee referred to by number in the Order means the Fee so numbered in Schedule I of the Supreme Court (Non-Contentious Probate) Fees Order, 1928,‡ as amended § and a reference in this Order to the first, second or third column means the first, second or third column (as the case may be) in that Schedule.

2. Fee No. 32 is hereby revoked and the following fee which shall stand as Fee No. 32 shall be substituted therefor—

First column.	Second column.			Third column.
	£	*s.*	*d.*	
32. For a photographic copy or extract of a will deposited in the Principal Probate Registry: For each photographic sheet				
(*a*) If of foolscap size ..	0	1	6	Adhesive
(*b*) If over foolscap size ..	0	3	0	Adhesive

3. This Order may be cited as the Supreme Court (Non-Contentious Probate) Fees Order, 1936, and shall come into operation on the 1st day of April, 1936, and the Supreme Court (Non-Contentious Probate) Fees Order, 1928, as amended, shall have effect as further amended by this Order.

Dated the 10th day of March, 1936.

Hailsham, C.
Hewart, C.J.
Wright, M.R.
F. B. Merriman, P.
James Stuart. } Lords Commissioners of
Arthur Hope. } His Majesty's Treasury.

* 15 & 16 Geo. 5. c. 49. † 42 & 43 Vict. c. 58.
‡ S.R. & O. 1928 (No. 972) p. 1228.
§ *See* S.R. & O. 1930 (No. 1063) p. 1752; 1933 (No. 588) p. 1824 and 1934 No. (401) II, p. 609.

Legal Notes and News.

Honours and Appointments.

The King has been pleased to approve that TERENCE JAMES O'CONNOR, Esq., K.C., M.P., be appointed Solicitor-General in succession to Sir Donald Somervell, O.B.E., K.C., M.P. Mr. O'Connor was called to the Bar by the Inner Temple in 1919, and took silk in 1929.

The Attorney-General has appointed Mr. H. G. STRAUSS, M.P., to be his Parliamentary Private Secretary. Mr. Strauss was called to the Bar by the Inner Temple in 1919.

Mr. C. PALEY SCOTT, K.C., Recorder of Hull, has been appointed Chancellor of the County Palatine Court of Durham. Mr. Scott was called to the Bar by the Inner Temple in 1906.

Mr. A. B. HUDSON, a former Attorney-General of Manitoba, has been appointed a Judge of the Supreme Court of Canada.

Mr. C. J. F. ATKINSON, Clerk to Otley Urban District Council, has been appointed Clerk to Rawdon Urban District Council in succession to Mr. H. Walmsley. Mr. Atkinson was admitted a solicitor in 1890.

Mr. HERBERT MILNER DAWSON, of Bradford, and Mr. WILLIAM RUTLEY MOWLL, of Dover, Kent, have been elected Chairman and Vice-Chairman respectively of the Associated Provincial Law Societies for the year 1936. Mr. Dawson, who was admitted in 1900, is Clerk of the Peace for Bradford. Mr. Rutley Mowll, who was admitted in 1897, is Registrar of Dover Harbour and Coroner for the Ashford District of Kent. He has been a member of the Council of The Law Society since 1933.

Mr. F. A. HOWARTH, LL.B., Assistant Solicitor to the Hammersmith Borough Council, has been appointed Assistant Solicitor to the Woolwich Borough Council in place of Mr. Alan

Smith, Deputy Town Clerk, who has taken up a similar position at Lewisham. Mr. Howarth was admitted a solicitor in 1933.

Mr. H. D. A. ROBERTSON, Deputy Town Clerk of Morecambe and Heysham, has been appointed Deputy Town Clerk of the County Borough of Bury. Mr. Robertson was admitted a solicitor in 1933.

Professional Announcements.

(2s. per line.)

Mr. M. C. BATTEN (practising as G. & A. Cosens, at 2 Laurence Pountney Hill, Cannon-street, E.C.4), announces that on the 23rd March, 1936, he moved to larger and more convenient offices at 15, Dowgate Hill, Cannon-street, E.C.4. The telephone numbers are Central 5316-7.

Messrs. SYRETT & SONS, Solicitors, of 2, John-street, Bedford-row, W.C.1, announce that as from the 1st April, 1936, they are taking into partnership Mr. BERTRAM RICHARD CECIL, who has been a member of their staff for upwards of fifteen years. The name of the firm will remain unchanged.

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Notes.

A sessional evening meeting of the members of the Auctioneers' and Estate Agents' Institute of the United Kingdom will be held at 29, Lincoln's Inn Fields, W.C.2, on Thursday, 2nd April, at 7 p.m., when Mr. H. Mordaunt Rogers (past President) will deliver a paper entitled "The making of a Connoisseur"—Part 15—Thrills in stained glass on pilgrimages of pleasure.

A meeting of the Solicitors' Managing Clerks' Association will be held on Friday, 3rd April, in the Inner Temple Hall, by kind permission of the Benchers, when Mr. Maurice Healy, K.C., will deliver a lecture on "Some recollections of the administration of justice in Ireland." The chair will be taken at 7 o'clock precisely by The Right Hon. Viscount Finlay, K.B.E. The meeting ends at 8 p.m.

The Home Secretary last Tuesday received a deputation from the Magistrates' Association, consisting of Sir Edward Marlay Samson, Mr. J. E. Cecil Bigwood, Lady Emmott, Miss Sankey, and Mr. Cecil Leeson (Secretary). The deputation submitted a resolution passed by the Council of the Magistrates' Association on 5th December, 1935, and asked the Home Secretary to appoint a committee, or committees, to inquire into the following points: The jurisdiction and functions of the lay justices in the County of London; the relationship between lay justices and stipendiaries in provincial towns: the future position of clerks to justices; and certain matters of court procedure and minor amendments in Acts of Parliament affecting the courts of summary jurisdiction.

Court Papers.

Supreme Court of Judicature.

ROTA OF REGISTRARS IN ATTENDANCE ON

DATE.	EMERGENCY ROTA.	APPEAL COURT I.	GROUP I. MR. JUSTICE EVE. Witness Part II.	GROUP I. MR. JUSTICE BENNETT. Non-Witness
	Mr.	Mr.	Mr.	Mr.
Mar. 30	Hicks Beach	Ritchie	Ritchie	More
,, 31	Andrews	Blaker	*Andrews	Ritchie
April 1	Jones	More	More	Andrews
,, 2	Ritchie	Hicks Beach	*Ritchie	More
,, 3	Blaker	Andrews	Andrews	Ritchie
,, 4	More	Jones	More	Andrews
	GROUP I. MR. JUSTICE CROSSMAN. Witness. Part I.	MR. JUSTICE CLAUSON. Witness. Part I.	GROUP II. MR. JUSTICE LUXMOORE. Non-Witness.	MR. JUSTICE FARWELL. Witness. Part II.
	Mr.	Mr.	Mr.	Mr.
Mar. 30	*Andrews	*Blaker	Jones	*Hicks Beach
,, 31	*More	*Jones	Hicks Beach	Blaker
April 1	*Ritchie	*Hicks Beach	Blaker	*Jones
,, 2	*Andrews	Blaker	Jones	Hicks Beach
,, 3	More	*Jones	Hicks Beach	*Blaker
,, 4	Ritchie	Hicks Beach	Blaker	Jones

* The Registrar will be in Chambers on these days, and also on the days when the Court is not sitting.

Stock Exchange Prices of certain Trustee Securities.

Bank Rate (30th June, 1932) 2%. Next London Stock Exchange Settlement, Thursday, 2nd April, 1936.

	Div. Months.	Middle Price 25 Mar. 1936.	Flat Interest Yield. £ s. d.	‡Approximate Yield with redemption £ s. d.
ENGLISH GOVERNMENT SECURITIES				
Consols 4% 1957 or after	FA	114½	3 9 10	3 1 1
Consols 2½%	JAJO	85	2 18 10	—
War Loan 3½% 1952 or after	JD	106½	3 5 9	3 0 2
Funding 4% Loan 1960-90	MN	118¾	3 7 6	2 18 4
Funding 3% Loan 1959-69	AO	103	2 18 3	2 16 6
Victory 4% Loan Av. life 23 years	MS	114½	3 9 10	3 2 2
Conversion 5% Loan 1944-64	MN	121	4 2 8	1 18 8
Conversion 4½% Loan 1940-44	JJ	111½	4 0 9	2 4 8
Conversion 3½% Loan 1961 or after	AO	106½	3 5 9	3 2 5
Conversion 3% Loan 1948-53	MS	105	2 17 2	2 10 3
Conversion 2½% Loan 1944-49	AO	101½	2 9 3	2 5 9
Local Loans 3% Stock 1912 or after	JAJO	96	3 2 6	—
Bank Stock	AO	374xd	3 4 2	—
Guaranteed 2¾% Stock (Irish Land Act) 1933 or after	JJ	86	3 3 11	—
Guaranteed 3% Stock (Irish Land Acts) 1939 or after	JJ	96	3 2 6	—
India 4½% 1950-55	MN	117	3 16 11	3 0 0
India 3½% 1931 or after	JAJO	97½	3 11 10	—
India 3% 1948 or after	JAJO	85½	3 10 2	—
Sudan 4½% 1939-73 Av. life 27 years	FA	118¾	3 15 11	3 8 9
Sudan 4% 1974 Red. in part after 1950	MN	115½	3 9 3	2 14 7
Tanganyika 4% Guaranteed 1951-71	FA	115	3 9 7	2 15 4
L.P.T.B. 4½% "T.F.A." Stock 1942-72	JJ	110	4 1 10	2 13 5
COLONIAL SECURITIES				
Australia (Commonw'th) 4% 1955-70	JJ	110	3 12 9	3 5 8
*Australia (C'mm'nw'th) 3¾% 1948-53	JD	104	3 12 1	3 7 4
Canada 4% 1953-58	MS	112	3 11 5	3 1 7
*Natal 3% 1929-49	JJ	101	2 19 5	—
*New South Wales 3½% 1930-50	JJ	101	3 9 4	—
*New Zealand 3% 1945	AO	101	2 19 5	2 17 6
Nigeria 4% 1963	AO	113xd	3 10 10	3 5 8
*Queensland 3½% 1950-70	JJ	101	3 9 4	3 8 2
South Africa 3½% 1953-73	JD	109	3 4 3	2 16 6
*Victoria 3½% 1929-49	AO	100	3 10 0	3 10 0
CORPORATION STOCKS				
Birmingham 3% 1947 or after	JJ	97	3 1 10	—
*Croydon 3% 1940-60	AO	100	3 0 0	3 0 0
Essex County 3½% 1952-72	JD	108	3 4 10	2 17 10
Leeds 3% 1927 or after	JJ	96	3 2 6	—
Liverpool 3½% Redeemable by agreement with holders or by purchase	JAJO	106	3 6 0	—
London County 2½% Consolidated Stock after 1920 at option of Corp.	MJSD	81	3 1 9	—
London County 3% Consolidated Stock after 1920 at option of Corp.	MJSD	96	3 2 6	—
Manchester 3% 1941 or after	FA	97	3 1 10	—
*Metropolitan Consd. 2½% 1920-49	MJSD	100½	2 9 9	—
Metropolitan Water Board 3% "A" 1963-2003	AO	96	3 2 6	3 2 10
Do. do. 3% "B" 1934-2003	MS	96	3 2 6	3 2 10
Do. do. 3% "E" 1953-73	JJ	101	2 19 5	2 18 5
†Middlesex County Council 4% 1952-72	MN	115	3 9 7	2 17 6
† Do. do. 4½% 1950-70	MN	118	3 16 3	2 19 10
Nottingham 3% Irredeemable	MN	96	3 2 6	—
Sheffield Corp. 3½% 1968	JJ	106	3 6 0	3 3 11
ENGLISH RAILWAY DEBENTURE AND PREFERENCE STOCKS				
Gt. Western Rly. 4% Debenture	JJ	114½	3 9 10	—
Gt. Western Rly. 4½% Debenture	JJ	127½	3 10 7	—
Gt. Western Rly. 5% Debenture	JJ	140½	3 11 2	—
Gt. Western Rly. 5% Rent Charge	FA	134½	3 14 4	—
Gt. Western Rly. 5% Cons. Guaranteed	MA	129½	3 17 3	—
Gt. Western Rly. 5% Preference	MA	119½	4 3 8	—
Southern Rly. 4% Debenture	JJ	113½	3 10 6	—
†Southern Rly. 4% Red. Deb. 1962-67	JJ	115½	3 9 3	3 2 4
Southern Rly. 5% Guaranteed	MA	131½	3 16 1	—
Southern Rly. 5% Preference	MA	119½	4 3 8	—

*Not available to Trustees over par. †Not available to Trustees over 115.
‡In the case of Stocks at a premium, the yield with redemption has been calculated as at the earliest date; in the case of other Stocks, as at the latest date.

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Printed in Great Britain by THE SOLICITORS' LAW STATIONERY SOCIETY, LTD., 102–107, Fetter Lane, London, E.C.4, and Published at 29–31, Breams Buildings, London, E.C.4 ('Phone: Holborn 1853). Agents—The United States and Canada: The Carswell Co., Ltd., 145–149, Adelaide Street West, Toronto 2, Canada; India: Butterworth & Co. (India), Ltd., 6, Hastings Street, Calcutta; Publishers, Mount Road, Madras; Australia and New Zealand: "The Times," 255a, George Street, Sydney, N.S.W. Saturday, 28th March,